

# Criminal Division Annual Report



2004

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***United States Department of Justice***

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December 23, 2004

To all Criminal Division Employees:

This past year, the Criminal Division made great strides in the war against terror and the enforcement of important criminal laws. The Criminal Division can share in the credit of many that another year has gone by without an attack on our homeland. While this success is the work of many dedicated professionals throughout the government and beyond, this Division has played an important part in securing that success.

You prosecuted terrorist cases in courtrooms across the country. You prosecuted al Qaeda, Hizballah, and Hamas supporters. You brought charges against people involved in purported charitable organizations that fund or otherwise support terrorist activity. You charged people involved in terrorist-related drugs-for-weapons procurement plots, and you vigorously pursued narco-terrorists in Colombia. The collective result of these actions is that you weakened the enemy. You made it harder for them to communicate, organize and fund themselves and, ultimately, made it harder for them to carry out attacks on the United States and U.S. interests.

You dealt severe blows to criminal organizations involved in drug trafficking, intellectual property theft, large-scale and commercial distribution of child pornography, commercial distribution of obscene material, large-scale Internet fraud, alien smuggling, and all sorts of organized and, often, violent crime.

You set our sights on corruption and fraud in corporate boardrooms, financial institutions and offices of public trust, among others. You helped restore investor confidence in our markets, you empowered our citizens by ensuring the integrity of their public officials, and you bolstered the soundness of our banking sector against money laundering.

You provided thoughtful and practical advice to federal prosecutors in every office faced with daunting and broad attacks on our sentencing structure. You used our national perspective and broad experience to seek legal and programmatic changes that strengthened the rule of law. From managing the Department's asset forfeiture fund, to contributing to the national money laundering strategy, to negotiating critical treaties and agreements with foreign partners, to informing decisions about the use of sanctions on foreign countries, the Division made a lasting impact.

You made an impact on individual prosecutors. Besides joining forces in scores of particular investigations and prosecutions, many of our sections this past year fielded thousands of duty inquiries, each, from Assistant U.S. Attorneys in the field. Our workload tracking data reflects a trend where, more and more, our colleagues in the field turn to you for expert advice and guidance. Your help extended to our foreign partners, where you helped them fortify their

justice structure – thereby ensuring their ability to effectively partner with us in the war on terror and in our efforts to dismantle transnational criminal networks.

This year has been marked by a Division commitment to strengthen our impact through innovation, strategic planning, and partnership. Your efforts today are more focused, strategic, and complement well the efforts of other Department and government components. Your innovation and your vision make us a stronger Criminal Division today and ensure a stronger Criminal Division for tomorrow. You understand that the Division's role – indeed your role – is unique. The contributions you make are often contributions that only you can make by virtue of the special expertise and authorities of the Division. You take that responsibility to heart.

This annual report reflects on some of the significant accomplishments of this past year. In no way is it meant to be an exhaustive list. Rather, it represents “the tip of the iceberg.” As the report illustrates, your most significant accomplishments often resulted in cases and situations where you approached the task as a team – working together, across section lines, and with our U.S. Attorney partners, to pursue justice. Where possible, this report identifies the team members who made the accomplishments possible. However, for each section, office or person mentioned, we recognize that the support and work of many others laid the foundation for our success. To those people, I hope that you recognize your work in these pages and take pride in the accomplishments rightfully yours. I want to extend special thanks and mention to your families, whose patience, support and sacrifice is so critical to our success. They are the pillars of our foundation – upon which each accomplishment rests.

Just as you recognize your own accomplishments, I invite you to share in the accomplishments of your colleagues within the Division. The success of one is the success of all. While I value all our accomplishments, perhaps the most momentous accomplishment this past year has been the realization of a vision for one integrated Criminal Division.

Just as you have partnered with each other to most effectively meet our daunting and diverse mission, you closely partnered with our U.S. Attorney's Office colleagues. More than ever before, you have worked cooperatively with colleagues around the country – in true team spirit. From child sexual exploitation to intellectual property, to computer intrusions, to violent crime, asset forfeiture, money laundering, appellate practice, and more, Criminal Division substantive experts have formed close bonds and networks with counterparts in U.S. Attorney's Offices.

Your accomplishments reflect the personal and professional commitment of Division staff and the recognition of both the gravity of our mission and the consequences of failure. I look forward to another great year where your spirit of partnership and innovation and your dedication, experience and pillars of support drive us to even more significant accomplishments.

I am honored to serve with you and, together, to serve the American people.

Letter from Assistant Attorney General, Christopher A. Wray

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## MANAGEMENT REPORT

Management improvements and efficiencies took center stage for the Division this year. We undertook important adjustments—to our structure and our approach—to better prevent terrorist attacks and to enhance our ability to fight dangerous crimes. The changes we instituted this year are far-reaching and lay the foundation for the future. However, these changes are but a beginning and more work is needed to ensure that the Division realizes its full potential and adapts to a dynamic world and dynamic threats. We are realizing a shared vision for one integrated Criminal Division, driven by strategic vision and working in partnership with others, to achieve profound results.

- **One *integrated* Criminal Division.** Our strength lies, in part, in the wealth of subject matter expertise we house *under a single roof*. We recognize that the threat has changed—with the most significant threats originating from organized terror groups and organized criminal networks. Just as terrorists and criminals have organized their efforts, so have we. More than ever before, we work together as a multi-disciplinary team, with asset forfeiture and money laundering specialists working hand-in-hand with child sexual exploitation experts to strip offenders of their tainted gains; with our computer crime experts forging partnerships with Internet gambling specialists, identity theft specialists, and others; with our narco-trafficking, counterespionage and counterterrorism sections helping each other navigate complex classified information-sharing issues in their cases—the list goes on and on. We have formed cross-cutting working groups to devise and implement enforcement strategies in areas such as human trafficking, terrorist financing, terrorist mobility, law enforcement challenges posed by new communications technologies, internet-facilitated fraud, and more.
- **Strategic Vision.** We recognized the need to develop a strategic vision for tackling the momentous challenges we face in the war on terror and the fight against crime. This year we committed to developing crisp strategic plans that marry our goals to our strengths and ensure that our actions occur—not in a vacuum—but in the context of, and complementary to, the efforts of our law enforcement and U.S. Attorney partners. Because our actions are better guided and directed, we are a more formidable opponent to organized terror and criminal groups.

Importantly, we revamped our performance measurements and reward structure to mirror those strategic plans and goals. As we enter a new year, we have a clear vision for the future, a clear understanding of what we need to accomplish and a system that rewards those accomplishments and effectively addresses shortfalls.

- **Developing Strategic Partnerships.** While we took stock this year of our varied strengths and devised plans for combining those strengths for maximum impact, we also looked around us—to other Department components, U.S. Attorneys' Offices, law enforcement agencies, the intelligence community, and others—and developed plans to work *in partnership* towards common national goals. Intelligence-driven targeting now guides much of our efforts—in human smuggling, human trafficking, drug trafficking, counter-terrorism, counter-espionage, organized crime and other areas. Our strategic plans chart a course that ensures the Division prioritizes areas where U.S. Attorneys' Offices do not engage, cannot engage, or cannot engage as effectively without us—ensuring that we are not performing functions that could appropriately be performed by others.

We see ourselves as an important part of a team and we have better demonstrated that commitment to teamwork

The **Henry E. Petersen Award**, the Criminal Division's highest honor, was given to **Barry Sabin** for his exceptional achievements in leading and managing the Counterterrorism Section.

through all of our dealings, no matter how complex or mundane, with our colleagues in other Divisions and, importantly, in U.S Attorney's Offices. We approach our responsibility with the knowledge that we bring to bear important and *unique* assets. We recognize that those assets have a commensurately greater impact when they are directed towards a common strategy that recognizes the unique strengths of each component.

- **Results-oriented.** The careful planning and redirection discussed above have been with a single goal in mind: achieving tangible results in the war on terror and the fight against crime. The weighty list of achievements that follows in this annual report reflects our redefined strategy. Our prosecutions more often involve significant transnational organized criminal networks. They often involve coordinated action by the Division and other Department partners. They invariably involve coordinated efforts of various Criminal Division sections. They often result from our initiatives with the intelligence community.

The very caliber of our targets is telling—the FARC; the AUC; leading Colombian cartels; Hizballah; al-Qaeda; Russian organized crime syndicates, and even banks through which these targets launder their tainted proceeds. Similarly, the types of violations we focused on underscore our unique strengths and the breadth of our work—we pursued transnational, large-scale distribution of child pornography and obscenity; of intellectual property theft; domestic trafficking of children for prostitution; high-impact corporate fraud, and more. We pursued crimes that threaten our national security, such as cyber-intrusions and espionage. We hunted

down, denaturalized, and expelled Nazi war criminals.

Often, our success resulted from unique talents and authorities housed in the Division, and our unique ability to work with partners in the intelligence community and overseas. We have successfully frozen hundreds of millions of criminal assets in foreign bank accounts—once thought to be a safe harbor by criminal organizations. We have helped to seize the assets of corrupt dictators—ensuring the return of the money to the victimized countries. We have shared intelligence and evidence with foreign partners, allowing them to prosecute terror suspects on their own soil. We have prosecuted terror suspects on U.S. soil, assisted by evidence and intelligence obtained from foreign partners. We have orchestrated coordinated take-downs, simultaneously and through various time zones, in dozens of countries, to shut down notorious networks of intellectual property theft. We have safeguarded the integrity of the election process through prosecutions of corrupt officials and others.

The investment we made to redefine and hone our management philosophy, structure and direction has resulted in an integrated Criminal Division that brings all its strengths to bear, in a more coordinated fashion, to the cause of justice. It has resulted in a more informed and strategic approach to combating crime and fighting the war on terror—one that is already producing profound results.

## **GOAL 1: PROTECTING AMERICA FROM THE THREAT OF TERRORISM AND PROTECTING AND STRENGTHENING OUR NATIONAL SECURITY**

Like the Department as a whole, our first priority is to protect the Nation from terrorism. We do so by focusing our efforts on prevention and prosecution of terrorist offenses. We strengthen our national security by countering espionage threats. We also guard our critical communications infrastructure—protecting it from cyber attacks. Finally, we mitigate potential threats posed by foreign ownership of important U.S. interests.

On September 11, 2001, the United States suffered a tragic loss at the hand of al Qaeda terrorists. Al Qaeda was established by Usama Bin Ladin in the 1980s. It has called for a “jihad” or holy war against the United States—proclaiming that it is the duty of all Muslims to kill U.S. citizens. In addition to the September 11 attacks, al Qaeda conducted the bombings in August 1998 of the U.S. Embassies in Nairobi, Kenya, and Dar es Salaam, Tanzania, that killed at least 301 persons and injured more than 5,000 others. Al Qaeda claims to have shot down U.S. helicopters and killed U.S. servicemen in Somalia in 1993 and to have conducted three bombings that targeted U.S. troops in Aden, Yemen, in December 1992. Al Qaeda is linked to other terrorist plots worldwide.



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The Attorney General recently described our successes on the war on terror:

- Our intelligence and law enforcement communities, and our partners, both here and abroad, have **identified and disrupted over 150 terrorist threats and cells**;
- Worldwide, nearly **two-thirds of Al Qaeda's known senior leadership** has been **captured or killed**—including a mastermind of the September 11th attacks;
- Worldwide, **more than 3,000 operatives** have been **incapacitated**;
- Terrorist **cells across America have been broken up**, in cities including Buffalo, Seattle, Tampa and Portland (Oregon);
- **375 individuals have been criminally charged** in the United States in terrorism investigations;
- Already, **195 individuals have been convicted or have pled guilty** in the United States, including shoe-bomber Richard Reid and "American Taliban" John Walker Lindh; and
- **Over 515 individuals linked to the September 11 investigation** have been **removed** from the United States.

Statement of the Attorney General, "The Department of Justice: Working to Keep America Safer," available at [www.usdoj.gov](http://www.usdoj.gov); see also, Remarks of Attorney General John Ashcroft: End of Year Address to Department of Justice, December 10, 2004.

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Our criminal prosecutions make a significant contribution to the overall effort to prevent, disrupt, and prosecute those who have committed, or intend to commit, terrorist attacks against the U.S. Whether trying the case, debriefing a cooperator, or working with our partners in the intelligence community, experienced Criminal Division prosecutors are intimately involved in virtually every single terrorism prosecution—often as trial counsel. Our steady and experienced hand, along with our broad national perspective and strategic vision, has greatly impacted our shared success in the war on terror.

The Division's contributions to the prevention of another terrorist attack have been equally significant. Many of our prosecutions, themselves, are preventative in nature. Working with others, we poured through the landscape of intelligence information, open source information and case files to identify terrorists and those providing material support to terrorists. We used any number of applicable laws to disarm and disable them and their networks *before* they had an opportunity to strike.

We took the reins in the important call for effective, timely, and open sharing of critical intelligence. This year, more than ever, we have worked towards ensuring that the resources of our U.S. Attorney partners are brought to bear in the fight on terror in an effective and targeted manner. By keeping them up to date on important intelligence and coordinating their individual efforts, we ensure our actions have a common design and purpose—one imbued with a

broad national perspective and common strategy. Indeed, the Division has been one of the major architects of our national policy and strategy to combat terrorism.

We have improved the flow of information back to our leadership and the intelligence community to ensure that important policy decisions facing the Administration are made with the benefit of all of the facts.

We replicated at home our efforts in the field. We took stock of our considerable and varied strengths within the Division and ensured that our many talents and resources are brought to bear on the fight against terrorism—with nearly every Criminal Division section participating. In addition to the obvious work undertaken by the Division's Counterterrorism Section (CTS), many other sections have contributed in significant ways.

The Division's Office of International Affairs (OIA) obtained critical evidence from foreign governments and secured the extradition of defendants to stand trial in the United States. Our Office of Enforcement Operations (OEO), Computer Crime and Intellectual Property (CCIPS), Narcotic and Dangerous Drugs (NDDS), and Counterespionage (CES) Sections work to counter the threat to national security posed by foreign control over critical elements of our infrastructure. The dedicated professionals in the Division's Counterespionage Section combat national security threats on a daily basis—often toiling in anonymity. They purposely forego recognition in order to preserve the integrity of their important work. The Division's Office of Overseas Prosecutorial Development and Training (OPDAT) and our International Criminal Investigative Training Assistance Program (ICITAP) provide our foreign partners with the tools and ability to detect, deter and prosecute terrorism on their own shores—before it can arrive on ours. Division experts from the Appellate Section work in relative anonymity to support our continued use of tools that are critically important in the war on terror. Our experts from the Organized Crime and Racketeering Section lend their decades of experience with the racketeering statute—a powerful tool in the war on terror. Our Asset Forfeiture and Money Laundering Section (AFMLS) specialists put their vast experience to use in tracking terrorist assets. Domestic Security Section (DSS) staff prosecutes alien smugglers whose routes may be exploited by terrorists. The list goes on.

Finally, we reviewed our internal structure and made changes designed to improve our current response to today's challenges and designed to give us the ability to identify, and the flexibility to meet, the challenges of tomorrow. To most effectively marshal our Division resources, the Counterterrorism Section has been restructured to mirror the structure of the FBI's Counterterrorism Division. The Section fortified its ranks with nationally renowned talent and initiated an information technology program to better meet today's challenges.

From prosecution strategies to efforts to disrupt and prevent terrorist attacks, the Criminal Division has brought unique assets to the table. Our involvement in nearly every significant terrorism case, our membership in nearly every significant government-wide anti-terrorism policy and strategy group, our exclusive role with foreign partners and the intelligence community, and our management of the field-wide Anti-terrorism Advisory Council (ATAC) network give us an important broad national perspective that we apply to the individual counterterrorism efforts undertaken in the field. Thus, we ensure a coordinated, strategic, and effective approach to combating terrorism.

The Department's **Strategic Plan** recognizes the critical importance of applying a **broad national perspective to all our counterterrorism efforts**, requiring that all FBI "cases (. . .) be nationally managed and applied to a broader national perspective."

*Department of Justice Strategic Plan for Fiscal Years 2003-2008, available at [www.usdoj.gov](http://www.usdoj.gov).*

## OUR PROSECUTIONS PREVENT TERRORISM – WE DISABLE TERRORISTS BEFORE THEY CAN STRIKE

We have used our strengthened prosecution tools and our new access to intelligence information—much derived from the PATRIOT Act—to target terrorists for prosecution *before they attack*. We have effectively disabled known terrorists—persons sworn to carry out violent jihad against the United States, by prosecuting and convicting them of a myriad of precursor offenses. Our prosecutions also target the support systems of terrorists—including their financiers. We have traced their sources of money and support and used important legal tools to disrupt the support structures.

While we are prepared to react to a terrorist event, our most important goal is to use the means at our disposal to prevent and deter terrorist attacks *in the first instance*. The examples below illustrate some of the prosecutions that took place this past year—they are illustrative of many others. In each case, we identified dangerous terrorists who, if not jailed, would likely make every attempt to carry out an attack. Similarly, we identified and disabled terrorist supporters—thereby disrupting entire support networks and drying up sources of funding needed to support future terrorist attacks.

Our offensive strategy targets both the perpetrators of violence and those who give them material support. The chronology of a terrorist plot is a continuum from idea, to planning, to preparation, to execution and attack. The material support statutes help us strike earlier on that continuum—we would much rather catch terrorists with their hands on a check than on a bomb.

*Statement of Assistant Attorney General Christopher A. Wray before the Committee on the Judiciary, United States Senate, May 5, 2004.*

We have prosecuted significant cases this past year and have assisted in the prosecution of others. Although many of these cases are still pending, we have already obtained numerous convictions in these important prosecutions. Our prosecutions often involved the collaboration of several Criminal Division sections and U.S. Attorneys' Offices.

Since September 11, 2001, and up to December 9, 2004, 375 individuals have been charged and 195 have been convicted or pled guilty as a result of terrorism investigations. Between October 1997 (when the material support statute, 18 U.S.C. § 2339B, became functional) and September 11, 2001, the Department had obtained material support-type charges against 17 persons in four different judicial districts. In contrast, from September 11, 2001 to the end of November 2004, the Department of Justice has charged 113 people in 25 judicial districts with these types of crimes. The total number of convictions pre-September 11, 2001 was 7 individuals; post-September 11, 2001, there have been 57 individuals convicted. The Division's Counterterrorism Section was involved in many of those prosecutions and, importantly, in putting the programs and structures in place to support a robust prosecution initiative.

**A. We prosecuted those providing material support to terrorists**

We have used legal tools, old and new, that enable us to intervene at the earliest possible stage of terrorist planning in order to arrest terrorists and their supporters well before their violent plans become a reality. If terrorists have trouble procuring bomb components because we arrested their procurers, we have made the placement and detonation of the bomb less likely. We have worked to choke off their funding, making it more difficult for terrorist groups like Al Qaeda, HAMAS, and Hizballah to run their jihadist training camps.

To make sure that such prosecutions nationwide benefit from the Division's long-standing experience and national perspective, we have dispatched our counterterrorism prosecutors to trial teams all over the country, handling matters in Buffalo, Seattle, Miami, Alexandria, Idaho, Minneapolis, Cleveland, Dallas, Charlotte, Columbus, Bridgeport, the District of Columbia, New York City, Albany, Tampa, Raleigh, and elsewhere.

The Division's terrorist financing specialists have pooled important expertise from within and outside the Division to target terrorist financing and to strip terrorist groups of the economic means to carry out their threats.

- Working with the U.S. Attorney's Office in Dallas, we indicted the **Holy Land Foundation for Relief and Development (HLF)** and seven of its senior leaders for providing **material support to HAMAS**, to the tune of **\$12 million in funding** since 1995.
- In July 2004 after a four-week trial, prosecutors from the Criminal Division and the Northern District of Texas secured the conviction of the **Infocom Corporation** and brothers **Bayan Elashi, Basman Elashi, Ghassan Elashi, Hazim Elashi, and Ihsan Elashi**. The Elashi brothers owned and operated Infocom, an Internet service provider and computer exporter. In the 1990s, they shipped computers and computer components to Libya and Syria, countries that had been designated as state sponsors of terrorism. In doing so, the defendants filed false export declaration forms with the U.S. Department of Commerce. The brothers also engaged in a scheme with **Mousa Abu Marzook**, a leader of **HAMAS**, to allegedly disguise his \$250,000 investment in the company and to provide him with Infocom profits until at least April 2001. Ghassan Elashi is the chairman of the **Holy Land Foundation for Relief and Development**, a specially designated terrorist organization. The convictions were based on the illegal exports to Libya and money laundering.

The Attorney General recently announced the Department's success in dismantling the terrorist financial network:

- Designated 36 terrorist organizations; Frozen \$138 million in assets around the world;
- Launched 70 investigations into terrorist financing, with 23 convictions or guilty pleas to date; and
- Established an FBI Terrorist Financing Operations Section (TFOS) and utilized the Joint Terrorism Task Forces to identify, investigate, prosecute, disrupt, and dismantle terrorist-related financial and fundraising activities.

*Statement of the Attorney General, "The Department of Justice: Working to Keep America Safer," available at [www.usdoj.gov](http://www.usdoj.gov)*

HAMAS is a notorious terrorist organization that engages in violent attacks—including many suicide bombings—directed primarily at the government of Israel and its citizens. The terror attacks have taken the lives of hundreds of people, including several Americans.

## **B. We prosecuted terrorists who were intent on bringing jihad against America**

- Working with the U.S. Attorney's Office for the Eastern District of Virginia, we secured a guilty plea from **Abdurahman Alamoudi** in July 2004 for his participation in a **plot to assassinate** an ally in the war against terror—Saudi Crown Prince Abdullah—and his support of nations and organizations with ties to terrorism. His sentence of 23 years in prison and forfeiture of nearly \$1 million eliminates a potent threat to our nation's security and his resulting cooperation may protect America and our allies from potential attacks.

- Working with the U.S. Attorney's Office for the Eastern District of Virginia, we prosecuted and convicted members of a **violent jihad network in Virginia**. Three members were convicted at trial, while 6 others pled guilty. The defendants were associates of a violent Islamic extremist group known as Lashkar-e-Taiba (LET). All defendants have been sentenced to prison terms ranging between eight years and life without parole.

Lashkar-e-Taiba (LET) operates in Pakistan and Kashmir, and has ties to the al Qaeda terrorist network. Lashkar-e-Taiba, or "Army of the Pure," was founded in the mid-1980s to wage violent jihad in Afghanistan and India, and has espoused waging violent jihad against the United States, Britain, Russia and Israel.

- Working with the Joint Terrorism Task Force and the U.S. Attorney's Office in the Southern District of Ohio, we indicted **Nuradin Abdi**, a Somali national living in Columbus, Ohio, for his suspected participation in a **plot to blow up a Columbus area shopping mall**.

CTS Trial Attorney **Jennifer Levy** worked with the U.S. Attorney's Office in D.C. to secure a **160-year sentence** for Zaid Safarini, the Abu Nidal terrorist responsible for the **hijacking of Pan Am Flight 73** in Karachi, Pakistan in September 1986, which resulted in the **deaths of 22 passengers and crew, including two U.S. nationals**. She and the rest of the team received an **Attorney General's Award** for their contribution to this historic prosecution.

- During the heightened threat alert relating to the 2004 Presidential elections, we worked closely with our British counterparts in Scotland Yard to assist them in bringing charges in the U.K. against eight men who possessed **surveillance documents of various financial buildings** within the U.S.

### C. We used prosecutions more effectively to prevent terrorism and protect and strengthen our national security

The Department's Strategic Plan recognizes the critical need for bringing a broad national perspective to the war on terror. We recognize that one of the important benefits of our position as a headquarters unit with wide-ranging expertise is that we have that broad national perspective—indeed we help to shape it. We have the unique benefit of housing, *under a single roof*, formidable expertise in a broad range of

Criminal Division Appellate Section Trial Attorneys **John Drennan** and **Jonathan Marcus** received the **Attorney General's 2004 Award for Support of Litigation for Terrorism Related Litigation Support** for their roles in terrorism-related litigation. Since the attacks of September 11, they have spent countless hours writing draft briefs in several of the most important terrorism cases. Their efforts have been focused on the enemy combatant cases, the prosecution of Zacarias Moussaoui, and litigation under the Foreign Intelligence Surveillance Act. The latter resulted in a critical decision by the FISA Court of Appeals upholding the dismantling of the "wall" between intelligence-gathering and criminal investigation.



critical subject areas. We have brought these strengths to bear in our efforts to combat and prevent terrorism.

#### i. Appellate expertise

The Division's **appellate expertise** helped secure important court rulings that allow us maximum flexibility to fight the war on terror within the bounds of our Constitution—from enemy combatants to the defense of the constitutionality of our critical material support statutes.

“[T]he Fourth Circuit upheld the government’s core position in the Zacarias Moussaoui case. The Court held that the government can provide Zacarias Moussaoui with a fair trial while still protecting critical national security interests. The government will not be required to provide Moussaoui with interactive access to detained terrorists. This ruling also allows us to seek the death penalty, and to present evidence regarding the conspiracy of the Sept. 11, 2001 terrorist attacks.”

*Statement of Attorney General John Ashcroft, April 22, 2004*

We worked with U.S. Attorneys’ Offices and the Office of the Solicitor General to successfully reverse problematic rulings in the **Moussaoui case**—rulings that would have prohibited the Government from offering any evidence showing that Moussaoui had any involvement in, or knowledge of, the attacks of September 11<sup>th</sup> and precluding the Government from seeking the death penalty.

#### ii. Computer crime expertise

Similarly, our **computer crime** expertise was tapped as terrorists turned to computers, the Internet and other high-tech means to facilitate their crimes. We prepared high-tech search warrants that led to the discovery of the production of the **dangerous biological agent ricin**. We sprang into action, helping to trace the e-mail of the **kidnappers and murderers of Daniel Pearl**.

Our computer crime experts also protect our critical infrastructure by investigating and prosecuting cyber-intrusions. Terrorists might well use computer intrusions to carry out aspects of terrorist plots. Our aggressive protection of that critical infrastructure and prosecution of violators strengthens our national security.

Computer Crime and Intellectual Property Section prosecutors formed a key part of the team that responded to the **distributed denial of service (DDoS) attack** in April 2004 on the website of a major financial services company. On Friday, April 16, the attacker employed control over numerous compromised computer systems to send a flood of data at the company’s computer system, denying service to its approximately 500,000 on-line customers for approximately seven and one-half hours.

Company and FBI investigators identified the Internet Service Provider (ISP) that hosted the attacker’s IP address, and FBI agents executed a search warrant on Sunday afternoon, less than two days after the attack. Investigators tracked the suspect to Singapore, and the Division’s OIA attorneys helped prepare a request for evidence from that country. Division attorneys also worked to determine whether other financial institutions have been similarly attacked. The investigation is continuing.

### iii. **Counterespionage expertise/experience with export controls of dangerous munitions**

The Counterespionage Section's long **experience in counterespionage and export control of dangerous munitions** was used time and time again this past year to secure convictions against suspected terrorists attempting to arm themselves, or opportunists seeking to make money by supplying dangerous weapons to terror groups:

- We worked with the U.S. Attorney's Office in New Jersey to indict **Hemant Lakhani**, a British national, for trying to sell a shoulder-fired surface air missile to an FBI cooperating witness whom he believed represented **terrorists intent on shooting down an American commercial airliner**. This prosecution, which is ongoing, was made possible as a result of unprecedented cooperation with our Russian partners.
- We worked with the U.S. Attorney's Office in Chicago to secure the conviction of **Khaled Dumeisi**, who was **recruited by the Iraqi Intelligence Service** to gather information on Iraqi opposition members living in the U.S.

### iv. **International expertise and authority**

The Division's **international specialists** in OIA obtained key evidence and information from abroad; ensured that foreign prosecutions had the benefit of information and evidence obtained in the U.S.; and secured extraditions to the United States, from Germany and Hong Kong, of wanted terror suspects:

- **Specialists in export control laws** from the Division's Counterespionage Section joined forces with experts from CTS and OIA, as well as the U.S. Attorney's Office for the Southern District of California, to secure convictions in a significant "arms for drugs" case. Two defendants—Pakistani citizen Muhammed Abid Afridi and U.S. citizen Ilyas Ali—pleaded guilty to a conspiracy to distribute heroin and hashish and to providing material support and resources to Al Qaeda. The defendants negotiated with undercover agents for: (1) the sale of 600 kilograms of heroin and 5 metric tons of hashish; and (2) the purchase of four **Stinger anti-aircraft missiles**, which the defendants stated would be **sold to members of Al Qaeda in Afghanistan**. The Criminal Division **secured the extradition** of these defendants **from Hong Kong** to face the charges.

Since the 9/11 terrorist attacks, the Division's international specialists have made well **over 100 mutual assistance requests** for a wide variety of evidence in terrorism and terrorist financing cases. Evidence received from



abroad has led directly to our ability to bring cases in the U.S. **The Division also relays information abroad to support foreign prosecutions**—our information has led directly to substantial numbers of arrests of terrorists on foreign soil. Recent requests for mutual legal assistance in terrorism and terrorist financing cases have been made between the U.S. and Belgium, Germany, Portugal, Switzerland, Spain, France, Belgium, Australia, Canada, Norway, and Sweden.

#### **v. Expertise in border security and alien smuggling**

The Domestic Security Section's **experts in border security and alien smuggling** have partnered with law enforcement and the intelligence community, as well as U.S. Attorneys' Offices throughout the country, to investigate and prosecute several top-tier smuggling targets identified through intelligence. Targets presenting a security threat to the U.S. are prioritized. Thus far, **17 important smuggling targets have been dismantled or incapacitated** through our combined efforts. We recognize that our national security depends on secure borders:

- We worked with the U.S. Attorney's Office in the District of Columbia and the Bureau of Immigration and Customs Enforcement to secure the September 2004 indictments of four Michigan residents—Neeran "Nancy" Zaia, Thaer Omran Ismail Asaifi (a/k/a Abu Harp), Basima Sesi (a/k/a Linda), and Minas Mirza—for smuggling aliens from Iraq, Jordan, and other Middle Eastern countries into the U.S. The defendants are awaiting trial.

We worked with the U.S. Attorney's Office in the District of Columbia and ICE agents to secure the indictment of Egyptian national **Ashraf Ahmed Abdallah Bashar** for running an expansive smuggling operation to bring citizens of Egypt and neighboring countries into the U.S. unlawfully and without detection. A superseding indictment charging Bashar and co-defendant **Sara Luz Diaz Gamez** was returned in November 2004. These defendants are also awaiting trial.

#### **vi. Nazi war crimes expertise**

The **unique experience of our Office of Special Investigations in denaturalization prosecutions** of World War II criminals is being shared and put to use in securing denaturalization of individuals linked to terrorist groups.

- OSI assisted the Division's Counterterrorism Section and the U.S. Attorney's Office in Cleveland in the prosecution of Imam Fawaz Damra, who was convicted in June 2004 of naturalization fraud. He concealed from the former INS his membership in and/or affiliation with: (1) Afghan Refugees Services, Inc., aka Al-Kifah Refugee Center; (2) Palestinian Islamic Jihad; and (3) Islamic Committee for Palestine (ICP). The indictment further alleged that Damra concealed from INS that fact that he

had, prior to his application for citizenship, “incited, assisted, or otherwise participated in the persecution” of Jews and others by advocating and/or supporting violent terrorists attacks against Jews and others.

- Through its connections, OSI learned that a notorious former left-wing terrorist (one of the founding/leading figures in the former Baader-Meinhof and Red Army Faction “urban guerilla” organizations in Germany) and now a neo-Nazi extremist was planning to enter the United States to speak at a holocaust denial conference. OSI quickly informed the Counterterrorism Section and Domestic Security Sections and, working with others, ensured that his name was entered in the border control watchlist system – thus ensuring he will be denied entry into the United States.

**vii. Experience dismantling major transnational drug syndicates**

The Narcotic and Dangerous Drug Section’s **experience in fighting drug trafficking organizations** has been shared with CTS and put to use targeting narco-terrorists. As the Attorney General stated "Terrorism and drug trafficking often thrive in the same conditions, support each other, and feed off each other." (March 3, 2004 Press Release)

- We launched an offensive on the Fuerzas Armadas Revolucionarias de Colombia (**FARC**), a **notorious narco-terrorist organization** in Colombia. As a result, various leaders of the organization are now under indictment. Last year we secured indictments of top leaders Jose Benito Cabrera-Cuevas, Nayibe Rojas Valderama, Simon Trinidad, and Guillermo Galves Pardo. We are working with Colombia to finalize the extradition of Trinidad. We train and work with vetted police units in Colombia. We placed two narcotics prosecutors and two of our Division trainers in Colombia. Our presence on the ground, working with, and training, the Colombian vetted units, allowed us to secure this success.

The indictment . . . , like other recent indictments of the FARC and its members, shows the organization for what it truly is: a narco-terrorist operation that seeks to harm Americans and other innocent civilians . . . .

*Assistant Attorney General Christopher A. Wray, September 7, 2004*

- Working with the U.S. Attorney's Office for the District of Columbia, we secured the indictment of Arturo Montano Torres and Adolfo Toledo Medina, members of the **FARC** (Revolutionary Armed Forces of Colombia) for the November 15, 2003 **grenade attacks** on two dining establishments in Bogota, where one person was killed and 73 were injured, **including 5 Americans**.

The FARC is a narco-terrorist guerrilla army operating in Colombia. The FARC finances its war with the Colombian government by producing, selling and taxing cocaine and by other means including kidnapping Colombian and American citizens. Drug trafficking is the life-blood of the FARC because it enables the FARC to acquire weapons, ammunition and supplies necessary to carry on its attacks in Colombia.

- We have launched an offensive on the Autodefensas Unidas de Colombia (**AUC**), **another notorious Colombian narco-terror group**, and its leadership. The offensive began in September 2002 with indictments of Carlos Castano, the leader of the AUC, and his right-hand lieutenant, Salvatore Mancuso, among others, based on the importation of over 17 tons of cocaine into the United States from Colombia. Since that time, including this past year, Division narco-trafficking experts have steadily brought charges against the membership of this designated terrorist group – with charges having been brought against **another 18 members** of the group.

#### viii. Experience fighting organized crime and racketeering

The Division's **renowned expertise fighting organized crime and racketeering** in OCRS was paired with Division counterterrorism expertise, Organized Crime Strike Forces, and U.S. Attorneys' Offices, to bring powerful RICO charges against terrorists, terrorist organizations, and their facilitators.

The PIJ "Manifesto" describes PIJ as "The Islamic Jihad Movement in Palestine. . . the vanguard of the Islamic Revolutionary Movement" which rejects "any peaceful solution to the Palestinian cause, and the affirmation of the Jihad solution and the martyrdom style as the only choice for liberation." PIJ has engaged in several terrorist attacks, including, for example, a car bombing in 1994 which killed 9 and injured 50; a double suicide bombing in Israel in 1995 which killed 22; a bus bombing in 1995 in Gaza which killed 8, including a visiting American college student Alisa Flatow; and a 2002 suicide bombing that killed 20 and injured 50.

- RICO charges were brought against Sami Al-Arian and seven others believed to have provided material support to the **Palestinian Islamic Jihad (PIJ)** terrorist group. The district court in Tampa is currently hearing pre-trial motions.

- Three **HAMAS** operatives were indicted in Chicago for participating in a 15-year racketeering conspiracy in the U.S. and abroad to illegally finance terrorist activities—including murder; conspiracy to kill, kidnap, maim and injure persons in a foreign country; hostage taking; and obstruction of justice—in Israel, the West Bank and Gaza Strip, and to provide money for weapons.

**ix. Expertise in, and approval authority for, sophisticated or sensitive enforcement techniques**

The Division's Office of Enforcement Operations (OEO) has thrown the full weight of its **expertise in enforcement techniques**—which includes a responsibility for approving all Title III wiretaps and for overseeing the imposition of Special Administrative Measures (SAMs)—into the Department's counterterrorism effort. That expertise has been an important tool in securing crucial evidence and, in the case of SAMs, which restrict inmates' contacts, has guarded against further terrorist threats or violent crimes.

## **WE GO BEYOND PROSECUTIONS TO PROTECT AGAINST TERRORIST ATTACKS AND STRENGTHEN OUR NATIONAL SECURITY**

We have been hard at work laying a strong foundation to guard against terrorist attacks. Prosecutions are but one, albeit important, tool in our arsenal. Our prosecution targeting decisions benefit from our efforts to improve critical information sharing. We pioneered the use of classified intelligence in criminal prosecutions. We also advanced intelligence-driven targeting. We have strengthened our national security by taking important steps to shore up our communications networks—protecting them from attack or misuse. We have taken the battle beyond our shores—equipping foreign partners to better stem the tide of terrorism before it reaches our shores. In some instances, we have worked alongside our partners, in their own countries, to stem that tide. Finally, we have taken steps to improve the tools available to us to fight terrorism.

**Prevention is our highest priority**, because success in preventing terrorism saves lives and property, and reduces the need to investigate incidents and prosecute individuals. We cannot wait for terrorists to strike to begin investigations and make arrests. The death tolls are too high, the consequences too great.

*Department of Justice Strategic Plan for Fiscal Years 2003-2008, available at [www.usdoj.gov](http://www.usdoj.gov).*

**A. We ensured that our counterterrorism efforts are guided by the best information and intelligence possible**

We have rolled up our sleeves and implemented several new ways to ensure that our efforts are guided by good intelligence and that we share this universe of information with our partners around the globe. Together, we can stop terrorism long before it reaches our borders.

- We coordinate and ensure the timely flow of information to and from the intelligence and law enforcement communities and Criminal Division and U.S. Attorney terrorism prosecutors through our management of the ATAC program—a nationwide network of counterterrorism prosecutors.

The 2004 **Assistant Attorney General Award for Advancing National Security** was given to Counterterrorism Section prosecutors **Linda Bizzarro, Jerry DeMaio, Sylvia Kaser, Roger Weiner, David Deitch, Ranganath Manthripragada, and Martha Rubio** for their exceptional contributions to our counterterrorism mission as Anti-Terrorism Advisory Council Coordinators.

- This year, we hired a national coordinator for the ATAC program and set up a secure website to expedite the free and timely exchange of information. Our counterterrorism experts prepared formal daily and weekly reports for dissemination to the field and Department leadership.
- The Division used a scarce hiring slot for an information technology expert in our Counterterrorism Section (CTS) to ensure that CTS is optimally effective at communicating potentially critical and time-sensitive threat information quickly and widely. The challenge of communicating voluminous amounts of data from many different sources to many different recipients is daunting in itself. Add to that challenge the sensitive handling procedures accompanying classified threat information, and one can appreciate the difficulty of the task.

- The Division carried out the direction in the Department's Strategic Plan that we export our expertise to the field through training. The Division's counterterrorism experts alone have trained AUSAs at 13 separate conferences in 2004. The feedback from AUSAs in attendance, gathered by the National Advocacy

The trainers were described by AUSAs as "awesome," "very effective," "mission-focused," "excellent," "outstanding," "knowledgeable," "clear and very helpful," and "interesting." The content of the training was characterized as "thought provoking," "relevant," "extremely clear," "practical and useful," "orderly and simplified enough to allow for comprehension even by someone not well versed in the topic," and "practical, mission-focused, value-added."

Center, reflects that we are succeeding in educating the field and exporting our vast knowledge. CTS'

CTS paralegal **Jessica Bluebond-Langner** was awarded the **Attorney General's Award for Excellence in Legal Support** for developing a training presentation on the USA PATRIOT Act.

training has also extended to agents and other law enforcement professionals inside the United States. In total, this past year CTS sponsored or co-sponsored 66 training seminars. CTS and Division training abroad is detailed elsewhere in this report.

- We ensured the flow-back of meaningful prosecution-derived information to the intelligence community. We forwarded to the intelligence community the invaluable information elicited from confidential sources and cooperating defendants in various criminal investigations and prosecutions. We were able to do so because we provided critical guidance in the cases, often prosecuted the cases ourselves (in partnership with U.S. Attorneys' Offices) and kept up to speed on terrorism prosecutions across the country.
- Our information sharing extended to our foreign partners—helping them stop terrorism before it can reach and cross our borders.

... we are gathering information by leveraging criminal charges and long prison sentences. When individuals realize that they face a long prison term, they often try to lessen their prison time by pleading guilty and cooperating with the government.

- These individuals have provided critical intelligence about Al Qaeda and other terrorist groups, safehouses, training camps, recruitment, and tactics in the United States, and the operations of those terrorists who mean to do Americans harm.
- One individual has given us intelligence on weapons stored here in the United States.
- Another individual has identified locations in the United States being scouted or cased for potential attacks by Al Qaeda.

*Statement of the Attorney General, "The Department of Justice: Working to Keep America Safer," available at [www.usdoj.gov](http://www.usdoj.gov).*

- In October 2004 an Indonesian court convicted Rusman Gunawan (a/k/a "Gun Gun") for facilitating and/or aiding terrorism and sentenced him to four years in prison. Specifically, Gun Gun was found to have aided or facilitated the transfer of money that was ultimately used to finance the August 2003 bombing of the J.W. Marriott Hotel in Jakarta. **Indonesian prosecutors presented FISA-derived evidence** that our international specialists in OIA turned over to them, after securing the Attorney General's approval to do so. Gun Gun was one of six Indonesian students arrested during raids in Pakistan and was a member of the Jemaah Islamiyah/Al Qaeda cell known as the Al Ghuraba cell.



- We capitalized on new information-sharing protocols put in place by the Attorney General—developing hundreds of criminal investigative leads as a result. The

... information sharing and cooperation has vastly increased. Today, we are better able to 'connect the dots,' but our goal is to **further integrate and unify our national intelligence effort**.

*Statement of the Attorney General, "The Department of Justice: Working to Keep America Safer," available at [www.usdoj.gov](http://www.usdoj.gov).*

- Attorney General's new guidelines on information sharing allowed prosecutors greater access to intelligence information. Together, Criminal Division counterterrorism prosecutors and U.S. Attorneys' Offices undertook a nationwide, thorough prosecutorial review of existing FBI intelligence files and put in place a structure to ensure review of new intelligence files going forward. In a short period of time, the Division's counterterrorism experts participated in, and oversaw the review of, almost 6,000 FBI intelligence files. **The review led to related criminal investigations in more than 500 matters.**

- **We detailed a Criminal Division senior counterterrorism expert to serve as a new Deputy Counsel in the Department's Office of Intelligence Policy Review** to ensure the seamless flow of critical information between the intelligence and law enforcement worlds – taking advantage of the post-PATRIOT Act dismantling of the "wall" between intelligence and law enforcement.

The prosecution of this case was significantly propelled by the USA PATRIOT Act and the information sharing it promotes. As a result of the PATRIOT Act, investigators and prosecutors can use in criminal prosecutions of national security matters not only information gathered through traditional law enforcement methods, but also information gathered through lawful intelligence efforts—intelligence that often provides the pieces that complete the puzzle and make the prosecution possible.

*Attorney General John Ashcroft, September 16, 2004.*

- The Criminal Division became co-chair of the multi-agency **Human Smuggling and Trafficking Center**—an intelligence fusion center meant to improve the law enforcement response to human smuggling, human trafficking and **terrorist mobility**.

## **B. We protected our national security by strengthening our critical communications infrastructure**

- The Division's **computer crime experts** in CCIPS guard our critical infrastructure by working to prevent and prosecute cyber-intrusions and attacks. As we rely increasingly on computer networks for almost everything, including national defense, we are increasingly vulnerable to cyber attacks and their effect on national security can be enormous. The Division's computer crime experts help to guide and implement critical national security policy directives in this area.

- Prosecutors from all corners of the Division—including our narcotics, OEO, computer crime and counterespionage experts—banded together to maintain a keen eye on potential law enforcement and national security vulnerabilities arising from foreign ownership of critical U.S. interests. **We are identifying those gaps and taking measures to seal them.** We represent the Department in the inter-agency Committee on Foreign Investment in the United States (CFIUS) and review national security concerns attendant certain telecommunications transactions.

**C. We have taken the battle beyond our shores—equipping foreign partners to better stem the tide of terrorism before it reaches our shores**

Our **international experts** in the Office of International Affairs (OIA), the International Criminal Investigative Training Assistance Program (ICITAP), and the Overseas Prosecutorial Development and Training program (OPDAT), ally themselves with our counterterrorism, money laundering, forfeiture, and terrorist financing experts to take our battle beyond our shores.

- The Division's experts applied their in-depth knowledge of global money laundering standards when they went to 20 priority countries as part of U.S. government terrorist finance assessment and training teams.
  - Division prosecutors advised over 30 countries on terrorist financing legislation and provided on-site consultations to various countries. They even drafted legislation for foreign countries and worked with their finance, justice, and foreign ministries to help them implement their new legislation.
- We sent our people and recruited AUSAs and federal, state, and local law enforcement for **long-term missions to dangerous hotbeds for terrorism.** We worked to undermine the conditions that breed jihadist movements and sympathizers. We created strong and critical connections with law enforcement and government in those countries—connections that will help us, in the future, identify, stop, and punish contemplated terrorist attacks against the United States. We also sent support to emerging democracies and post-conflict nations because a strong police force and justice system are imperative in their fight to ward off terrorist movements.



- In addition to deploying our people to places like Pakistan, Kenya, the Philippines, and Indonesia, among many others, the Division has a significant presence in Iraq and Afghanistan—which includes prosecutors and large numbers of law enforcement personnel. They work under very dangerous conditions to stabilize the country by helping to implement a robust justice system.

The 2004 **AAG Award for Furthering U.S. Interests Overseas** was awarded to Criminal Division employees and AUSAs for their remarkable sacrifice and courageous service in Iraq. The award recipients were **Gary Barr, Robert Breeding, Carr Trevillian, Dana Biehl, Michael Mullaney, William Lantz, Jr., Wayne Rich, Greg Marchesault, Cliff Wardlaw, Mike Dittoe, Mike Gunnison, Bruce Pagel, Gary Shattuck, Mike Farhang, and Charles Jakosa**. Thanks in part to their efforts, over the last 18 months, **over 56,000 Iraqi police and border security officers have been trained and a criminal court system has been stood up and begun operating.**

- **We have more than doubled our long-term operational presence in U.S. Embassies in critical areas of the world** since September 11<sup>th</sup> 2001. We have now placed Attachés in Rome, Manila, Brussels, Mexico City, Paris, London, San Salvador, and Bogotá. Attachés work directly with U.S. law enforcement and their foreign counterparts on important matters, especially matters relating to counterterrorism efforts.
- We developed a **priority list** for international training and assistance based upon real-world, existing operational needs. This ensures that our training efforts are poised to further our counterterrorism and criminal enforcement operations.

**D. We tended to the prosecutor's toolbox: We sharpened the dull tools and procured better, more modern ones for new and more challenging tasks**

- Today, prosecutors can share case information with the intelligence community and can receive information from intelligence sources—something they could not do before—thanks to information-sharing provisions of the PATRIOT Act advanced, along with others, by Criminal Division experts. This new information-sharing tool that broke down the wall between

We know from the mouths of terrorists themselves that the PATRIOT Act is working to disrupt terrorist plots. From a recorded conversation between Jeffrey Battle, member of a Portland, Oregon terrorist cell and an FBI informant, that took place on May 8, 2002, and later unsealed in court:

“ . . . Everybody's scared to give up any money to help us. You know what I'm saying? Because that law that Bush wrote about, you know, supporting terrorism, whatever, the whole thing . . . Everybody's scared . . . He made a law that says for instance I left out of the country and I fought, right, but I wasn't able to afford a ticket but you bought my plane ticket, you gave me the money to do it . . . By me going and me fighting and doing that they can, by this new law, they can come and take you and put you in jail.”

*Prepared Remarks of Attorney General John Ashcroft, Senate Judiciary Committee Hearing: “The Terrorist Threat: Working Together to Protect America,” March 4, 2003.*

law enforcement and intelligence has resulted in stronger and greater prosecutions of terrorists. For example, Adham Amin Hassoun and Mohamed Hesham Youssef were indicted on terrorism offenses this year based in large part on evidence derived from intelligence sources.

- The recent prosecution of **Fawaz Damrah** by Criminal Division prosecutors and prosecutors from the U.S. Attorney's Office for the Northern District of Ohio was substantially bolstered through the use of intelligence information made available following the passage of the PATRIOT Act. Damrah, a well-known imam in Cleveland, was convicted in June 2004 of unlawfully obtaining citizenship by making false statements to Immigration and Naturalization Services officials. In filling out his citizenship application in 1993, Damrah failed to disclose his affiliation with Palestinian Islamic Jihad (PIJ), and the Islamic Committee for Palestine (ICP), an affiliation that was **proved through excerpts from 1994 intelligence wiretaps** that caught Damrah in conversation with a high-ranking member of both PIJ and ICP discussing the organizations' fundraising schemes.
- Working with the FBI, the DEA, and other components of the Department, our narcotics, enforcement operations, and computer crime experts have collaborated to identify **dangerous lapses in our ability to conduct electronic surveillance due to fast-paced changes in technology**. Effective electronic surveillance is a critical tool for our investigators because criminals' need to communicate is their greatest vulnerability. If interception capabilities do not keep up with emerging technologies, it will become difficult, if not impossible, for law enforcement to effectively investigate terrorism, narcotics trafficking, alien smuggling, and other types of organized crime that threaten our Nation.

The Communications Assistance for Law Enforcement Act of 1994 (CALEA) defines the statutory obligation of telecommunications carriers to assist law enforcement in executing electronic surveillance pursuant to court order or other lawful authorization. The CALEA Policy Committee, led by the Criminal Division, anticipates gaps in law enforcement's abilities with new technologies and springs to action to seal those gaps. Members of this group have recently been involved with the CALEA rulemaking proceedings pending in the FCC and the development of legislative proposals to amend CALEA and other electronic surveillance-related statutes.
- We proposed and advanced revisions to key statutes. Our broad national perspective gave us the unique insight to identify gaps in our laws and our headquarters position allowed us to act.

**Counterterrorism Section Deputy Chief Ronnie Edelman** received the **Attorney General's 2004 Award** for Preparation and Handling of Legislation for **drafting of counterterrorism legislation**.

- The Terrorism Reform and Terrorism Prevention Act of 2004, that went into effect on December 17, 2004, strengthens our prosecution tools in the war on terror:
  - The Act makes numerous improvements to our already much-relied upon material support statute.
  - The Act criminalizes the receipt of military-type training from a foreign terrorist organization.
  - The Act makes ineligible for entry into the United States persons who have received military-type training from a foreign terrorist organization and also provides for deportation of such individuals in the United States. Similarly the Act makes ineligible for entry members and representatives of those organizations. Importantly, these provisions are retroactive.
  - The Act criminalizes terrorism hoaxes—which can seriously disrupt people’s lives and needlessly divert law enforcement and emergency-services resources.

**E. We implemented significant programmatic changes to make our government more effective at preventing another terrorist attack**

The Division gains its broad national perspective through its hands-on prosecutions throughout the country; its close relationships with anti-terrorism prosecutors throughout the country; its extensive ties and dealings with foreign governments and foreign law enforcement in anti-terrorism matters; and its close, trusted and long-standing relationship with the intelligence community.

- For example, as a headquarters unit, we learned of instances of stolen travel documents in different countries abroad. We were uniquely situated to identify how those documents might be used by terrorists to gain surreptitious entry into the United States and quickly engaged the foreign nations for detailed information and ensured it was widely disseminated to our own border protection experts. The Division is also working to ensure we have a system for nations to quickly share information about stolen travel documents with other nations.

The Division also brings all this experience to bear as it represents the Department in a number of important government-wide initiatives to prevent terrorism and deal with its potential consequences:

- We helped develop and polish national and regional antiterrorism strategies, particularly through our participation in interagency crisis

- exercises such as TOPOFF and PINNACLE.
- We advised the Attorney General on Foreign Terrorist Organization (FTO) designations.
  - We led the effort, along with the FBI, to devise a Critical Incident Response Plan to ensure effective response to terrorist incidents, including the establishment of procedures for off-site operations, if necessary.
  - We actively participated and contributed to virtually every counterterrorism-related interagency working group, including several chaired by the National Security Council and the Homeland Security Council. This gives us a broad national perspective and has allowed us to help shape the national strategy.

In sum, the Criminal Division has pulled a laboring oar in the fight against terror and has made important contributions to our national security. Our success is tied directly to the innovation and commitment brought to the task by Criminal Division employees. We proved that working together, as a unified, "One Division," we can reach an unprecedented level of achievement and play a critical role in protecting our nation.

The Criminal Division's prestigious **Lois Bundy award** went to **Emily Sullivan** for her thirteen years of invaluable service and administrative support to the Counterterrorism Section and its predecessor.

## **GOAL 2: ENFORCING CRIMINAL LAWS**

The Division's attorneys include many of the Justice Department's experts in specific types of crime and the best ways to fight them. By participating in, and keeping abreast of, developments across the Nation and around the world, we have "seen it all"; this allows us to develop expertise that is both broad and deep, and to stay a step ahead of cutting-edge criminals. Thus, the Division specializes in handling difficult, complex cases against the highest rungs of sophisticated, multinational criminal organizations.

### **OUR STRONG EXPERTISE AND BROAD NATIONAL PERSPECTIVE ALLOW US TO ANTICIPATE AND ADAPT QUICKLY TO CRIMINALS' METHODS**

Sophisticated criminal organizations have grown powerful precisely because of their resourcefulness and adaptability. Often, they do not confine their activities to just one type of crime; they flourish because their leaders identify and take advantage of a variety of criminal opportunities. For example, terrorist organizations such as the FARC and the AUC engage in drug trafficking to finance their agendas of violence. When specialists in the drug trade seek to move narcotics illegally across borders, they learn how to move persons illegally

along these routes as well. The Division's mission is to identify and anticipate these types of connections and determine how best to shut down the enterprise in its entirety. The indictment in May 2004 of nine leaders of Colombia's Norte Valle Cartel is just one example of how we work with our partners in the U.S. Attorneys' Offices and law enforcement agencies to tackle not just the individuals, but the enterprise. Just as criminals form sophisticated and varied networks to achieve their ends, so does the Division thwart them with a broad array of our own interconnected resources.

In the past year, our international specialists have continued to forge and maintain relationships with their counterparts abroad, which proved enormously valuable when we sought extradition or mutual legal assistance treaties. Our policy and legislation experts collected feedback from around the Nation about the current state of our laws, then developed and promoted fixes to address those issues. Our attorneys abroad both trained foreign prosecutors and police in effective law enforcement methods and collected valuable information on recent criminal developments abroad. As more and more criminal organizations employ digital technology and the Internet, we leveraged the skills of our surveillance and computer crime experts more than ever. And we continued to apply the knowledge of our asset forfeiture and money laundering experts, because cutting off and seizing a criminal organization's funds literally puts it out of business.

When Division attorneys lead investigations and bring prosecutions, we enjoy the benefits of housing many experts under one roof. During the past year, we have tapped a wide array of them to collaborate and focus on specific targeted organizations, many of which engage in a variety of criminal activities. We also make our expertise available as a resource to the field. From fulfilling requests for more manpower on trial teams, to fielding urgent calls for advice from the field, to providing substantive training both at home and abroad, the Division served as a crucial partner in the fight against crime in 2004.

**A. CORPORATE FRAUD: Our expertise has been invaluable in the Nation's fight to prosecute and deter corporate fraud**

*[I]t is time to reaffirm the basic principles and rules that make capitalism work: truthful books and honest people, and well-enforced laws against fraud and corruption.*

- President George W. Bush, July 9, 2002

*The President's Corporate Fraud Task Force will continue to pursue these cases to the utmost, to send the clear message to all those who participate in the public markets that such conduct will result in severe criminal penalties.*

- Deputy Attorney General James B. Comey, October 6, 2004

*[T]he government has important new tools to hold executives accountable for corporate fraud, and we won't hesitate to use them where the evidence warrants it.*

- Assistant Attorney General Christopher A. Wray, November 4, 2004

**Our strategy to combat corporate fraud.** When President Bush established his Corporate Fraud Task Force in July 2002, he called on us to clean up corruption in the board room, restore investor confidence in our financial markets, and send a loud and clear message that corporate wrongdoing will not be tolerated. From the Enron scandal in late 2001, through the WorldCom and Adelphia prosecutions announced in the summer of 2002, numerous high-profile acts of deception in corporate America had shaken the public's trust in corporations, the financial markets, and the economy. As a key member of the Task Force, the Criminal Division has devoted the full weight of its manpower and collective expertise to fulfilling the mission of restoring that trust.

The Task Force's collective efforts have led to swift and thorough investigations—what we refer to as “real-time enforcement”—even in the most sophisticated cases. A major benefit of our aggressive, team-oriented approach is the ability to identify and punish defendants promptly after they commit their crimes. Simply put, speed matters in corporate fraud investigations.

Integrity is being restored to the marketplace under the leadership of President Bush's Corporate Fraud Task Force. **In 28 months, more than 900 violators have been charged in more than 400 cases.** More than 500 individuals have been convicted, including top executives at companies like **Enron**, **HealthSouth**, and others.

One of our principal aims in these cases is to disgorge ill-gotten gains from the guilty parties and restore them to investors and other victims, before they can be dissipated or stashed away. Where executives have committed fraud, protecting the corporation and the public often requires quick action to remove wrongdoers from their positions so they cannot run the company further into the ground. Sophisticated financial crimes take a long time to investigate thoroughly, but the public simply cannot wait years for law enforcement to take action. A rapid, real-time response to allegations of fraud is critical to maintaining confidence in the markets and the economy as a whole.

Our new strategy of “segmenting” investigations illustrates this major shift in strategy. Because corporate fraud cases are often so complicated, we could easily spend years investigating them. But we don’t have years to assemble the “perfect” case, where every possible defendant and all wrongdoing are compiled into a single indictment or enforcement action. Rather, increasingly, our prosecutors and the agents with whom they work have been taking action as swiftly as the evidence will allow, identifying distinct cases—which may comprise separate segments of conduct involved in a larger investigation—and bringing them as soon as possible. This approach sends important and early signals that the Government is serious about getting to the bottom of corporate fraud. Targets and defendants begin cooperating and advancing the investigation more quickly and in new directions; these actions create momentum—a promising momentum for the victims and an ominous one for corporate fraudsters.

In September 2004 the Division restructured its Fraud Section in order to enhance our productivity in the fight against corporate fraud. The restructuring clarifies the allocation of the Section’s responsibilities between litigation and policy-related matters and helps ensure that the Section’s leadership can provide the required expertise and guidance in both. Within the new structure, the strengthened litigation function benefits from clearer lines of authority and fewer bureaucratic hurdles, while a smaller cadre of specialists will focus on initiative development and policy formulation. Of course, litigation and policy specialists continue to provide each other with valuable advice and expertise; each group making sure that the Section as a whole maintains its reputation for constant innovation and top-notch legal talent.

Naturally, our experts in prosecuting corporate fraud and economic crimes continue to lead our efforts; we rely on their broad experience and constant innovation. Our corporate fraud experts are joined in many investigations and prosecutions by our AFMLS experts in money laundering and asset forfeiture. Their specialized knowledge of how to follow the money and to return ill-gotten gains to fraud victims is invaluable. The following cases illustrate the significant results achieved with the help of the Division’s manpower and varied resources:

- **Enron.** The investigation of Enron’s collapse is being conducted by the Enron Task Force, a team of federal prosecutors supervised by the Department’s Criminal Division and agents from the FBI and the IRS Criminal Investigations Division. The Enron Task Force is part of President Bush’s Corporate Fraud Task Force. Once the seventh-ranked company in the U.S. with stock trading as high as \$80 per share, Enron filed for bankruptcy protection in December 2001 and its stock became virtually worthless.

Task Force members have systematically unraveled the most complicated corporate scandal in history. **In 2004 alone, we secured 13 convictions** of Enron executives, and others, for participating in parts of the massive fraud that destroyed the company. In addition to the **conviction of**



**former CFO Andrew Fastow**, this step-by-step approach also led to the indictments of **former CEOs Jeffrey Skilling** and **Kenneth Lay** earlier this year.

On July 8, 2004, a superseding indictment charged former **Enron Chairman and CEO Kenneth Lay** with securities fraud, conspiracy to commit securities fraud, and several other fraud and false statements counts.

The indictment of Enron's CEO shows that we will follow the evidence wherever it leads - even to the top of the corporate ladder. No corporate executive—not even the CEO—is above the law. The Department of Justice and our Task Force partners will work tirelessly to hold accountable all those who participate in corporate fraud, no matter how devious the scheme, and no matter how highly placed the perpetrators.

*Assistant Attorney General Christopher A. Wray, February 19, 2004*

The indictment joined Lay as a defendant in a case pending against former Enron **CEO Jeffrey Skilling** and former Enron **Chief Accounting Officer Richard Causey**. According to the indictment, the defendants and other Enron executives engaged in a wide-ranging scheme to deceive the investing public, the SEC, and others about the true performance of Enron's business. The alleged scheme masked the company's failure to meet analysts' expectations and artificially inflated the price of Enron's stock, much of which was owned by the defendants. If convicted of all charges in the indictment, Lay faces up to 175 years in prison and millions of dollars in fines. To date, the Enron Task Force has **restrained more than \$161 million in proceeds** derived from criminal activity. The Task Force investigation is continuing.

The return of the above indictment was aided by the cooperation of former Enron **Chief Financial Officer Andrew Fastow**, who previously pleaded guilty to conspiracy to commit securities and wire fraud. He will face a prison term of ten years, an unusually long sentence for a cooperator in a white-collar case. Fastow admitted that he and other members of Enron's senior management conspired in wide-ranging schemes to fraudulently manipulate Enron's publicly reported financial results. Prosecutors also secured the forfeiture of more than \$29 million in personal assets from Fastow and his wife, Enron's former assistant treasurer, who herself pleaded guilty to filing a false federal income tax return.

In June 2004 a Fifth Circuit panel unanimously affirmed a federal jury's verdict convicting Arthur Andersen LLP for obstructing justice when it destroyed Enron documents while on notice of a federal investigation. The Division recognized Appellate Section attorneys **Sangita Rao** and **Elizabeth Collery** with a **Special Commendation Award** for their outstanding appellate advocacy in sustaining the conviction.

Just recently, a jury convicted a former Enron executive and four former Merrill Lynch officials of **conspiracy and wire fraud** for their role in the



accounting fraud that led to Enron's collapse. Merrill executives helped Enron cook its books in December 1999 when the investment bank paid \$7 million for a stake in three **energy-generating barges moored off the Nigerian coast**. Enron secretly promised to buy back Merrill's investment, with interest, six months after the sale; this made the deal a loan under accounting rules and Enron's subsequent booking of a profit fraudulent. The verdicts, which meted out individual justice as to the convicted defendants, also go hand-in-hand with the sweeping reforms mandated by the government's deferred prosecution agreement with Merrill Lynch.

- **HealthSouth.** In undertaking the large and complex HealthSouth investigation, the U.S. Attorney for the Northern District of Alabama asked the Criminal Division for assistance. The Division responded willingly, dispatching litigators to staff trial teams and providing substantive and strategic advice. Their swift, coordinated response is achieving results. The team has **already convicted 17** of 20 senior officers charged with felony violations, **including 5 current or former Chief Financial Officers**, in this accounting fraud case in which company finances were fraudulently inflated by \$2.6 billion. These defendants face between five and thirty years in prison for their roles in the accounting fraud at HealthSouth. In September 2004 a federal grand jury returned a superseding indictment charging **former HealthSouth CEO Richard Scrushy** with obstruction of justice and perjury in addition to the fraud and related charges he already faced as a result of an alleged wide-ranging scheme to make the company appear more successful than it actually was by falsifying financial statements.

Division attorneys continue to work closely with prosecutors from the U.S. Attorney's Office for the Northern District of Alabama in order to bring this large and complex investigation to a successful conclusion. The Division's asset forfeiture specialists are guiding the **effort to seize more than \$278 million in property** that Scrushy derived from proceeds of his alleged offenses, including several residences, boats, aircraft, luxury automobiles, and valuable artworks. Our appellate specialists continue to assist the trial team in a variety of matters, including government appeals of the sentences imposed on some of the HealthSouth defendants. If convicted of all charges, Scrushy faces up to 450 years in prison and more than \$30 million in fines, in addition to the forfeiture of ill-gotten gains.

- **Enterasys.** Fraud Section attorneys worked with the U.S. Attorney's Office for the District of New Hampshire to prosecute executives of Enterasys Network

The public is entitled to honest books that reflect the real value of a company. When corporate executives allegedly cook the books to create the illusion of success, they undermine the integrity of the marketplace.

*Assistant Attorney General Christopher A. Wray, May 19, 2004*

Systems, Inc., a computer hardware and software corporation previously headquartered in Rochester, New Hampshire. The executives engaged in a revenue recognition scheme, fraudulently inflating by over \$20 million the amount of revenue Enterasys reported to its shareholders and the SEC. In September the **former CEO of Enterasys pleaded guilty** to a conspiracy charge and faces up to five years in prison. Three other executives have also pleaded guilty, and two others—the former CFO and Senior Vice President of Finance—await trial.

Fraud Section attorneys **Thomas Hanusik and Michael Koenig** received the **Assistant Attorney General's Award for Financial Integrity** in recognition of their outstanding corporate fraud work on the Enterasys case.

- **Just For Feet.** In April 2004 in the Northern

District of Alabama, Don-Allen Ruttenberg, former **executive vice president** of Just For Feet, Inc. (JFF), a publicly traded corporation headquartered in Alabama that filed for bankruptcy in 1999, **pleaded guilty to two counts of conspiracy to commit securities and wire fraud and to submitting false statements to auditors.** Steven C. Davis, former JFF director of advertising, pleaded guilty to one count of making false statements to federal agents in connection with the federal government's investigation of JFF's finances. During the course of JFF's audit for the fiscal year ending January 30, 1999, Ruttenberg **caused JFF's accounting department to record over \$5 million in fictitious accounts receivable** purportedly due to JFF from various vendors, resulting in a **\$5 million overstatement to the SEC of JFF's earnings** for that fiscal year. Previously pleading guilty to separate informations were former JFF president Adam Gilburne; Timothy McCool, national sales director of Adidas America; Jonathan G. Epstein, former president and CEO of Fila USA; Steven G. Dodge, the former vice president of U.S. sales for Converse, Inc.; and Thomas Shine, former president of Logo Athletic, Inc.

**Cutting-edge advice to the field.** In addition to providing additional manpower to U.S. Attorneys' Offices around the country, the Division's specialists in corporate fraud have also been providing the field with cutting-edge advice on

Ruttenberg and others wrote up \$5 million in bogus accounts receivable to make Just For Feet appear more financially solid than it actually was. Just For Feet's finances were a sham, and we will pursue those responsible for the criminal fraud and the company's bankruptcy. This sort of corporate fraud will not be tolerated; we will investigate and prosecute it fully.

*Assistant Attorney General Christopher A. Wray, February 25, 2004*

a wide variety of topics. One topic that continues to be particularly important is **the decision to bring criminal charges against a corporation itself**, and not simply against particular culpable employees of that corporation. This determination has weighty consequences for corporations under scrutiny, as demonstrated by the fate of Arthur Andersen when it was convicted of obstructing the SEC's investigation of Enron's collapse. The Division's experts are well versed in the analysis that precedes the corporate charging decision. They have also advised the field on alternative resolutions such as deferred prosecution or nonprosecution agreements. In certain cases, these flexible and innovative approaches can strike the right balance between diligent enforcement and deterrence on the one hand, and proper incentives for companies to self-report and cooperate on the other.

- For example, the Division recently oversaw the execution of deferred prosecution agreements with **PNC Financial**, which had engaged in accounting fraud to shift \$762 million in troubled loans off of its books, **and Merrill Lynch**, which had helped Enron cook its books by disguising a \$7 million transaction involving three barges moored off the Nigerian coast as a purchase rather than a loan. Division attorneys also supervised the entry of a nonprosecution agreement with **CBIC**, a major Canadian bank which had facilitated fraudulent transactions involving Enron.
- On November 30, 2004, in a case related to the PNC Financial matter discussed above, the Division's Fraud Section attorneys finalized an agreement with **American International Group ("AIG")—the world's largest insurer** by market value—and two of its subsidiaries to resolve the criminal liability associated with certain financial transactions by **paying \$80 million in penalties** to the U.S. and **cooperating fully** in the government's continuing investigation of those transactions. AIG developed and sold certain structured financial transactions that allowed PNC Financial to shift troubled loans illegally off of its books.

As part of the agreement, the Department of Justice will defer prosecution for 13 months and eventually dismiss the complaint if AIG and its subsidiaries comply with all of the relevant requirements. Under the agreement, AIG must implement **a series of reforms** addressing the integrity of client and third-party transactions, **including a retrospective review of certain transactions by an independent consultant and creation of a transaction review committee**. In a related enforcement proceeding filed by the SEC, AIG also consented to the entry of a judgment requiring AIG to **disgorge \$39.8 million in fees** received from these transactions and **\$6.5 million in prejudgment interest**.

- On December 15, 2004, **America Online, Inc.** entered into an agreement to defer prosecution on charges of aiding and abetting securities fraud in connection with transactions between AOL and PurchasePro.com. AOL agreed to **accept responsibility for the conduct of its employees** in the PurchasePro transactions, adopt internal compliance measures, and cooperate with an ongoing criminal investigation. AOL also agreed to **pay into a compensation and settlement fund \$150 million** and a **criminal penalty of \$60 million**. The agreement was the result of a successful collaboration between the Division's Fraud Section and the United States Attorney's Office for the Eastern District of Virginia.

In 2004, the Division's innovative approaches in dealing with white collar crime was recognized by the award to **Steve May** and **Cynthia Stone**, members of the Division's Asset Forfeiture and Money Laundering Section, who received **OCDETF's National Asset Forfeiture Award** in recognition of their hard work and innovative thinking during the Operation Monopoly investigation.

This long-term investigation into the largest bank in Puerto Rico, Banco Popular de Puerto Rico, resulted in the forfeiture of \$21.6 million to the United States and a deferred prosecution agreement against the bank. The investigation—one of the first of its kind—uncovered the bank's systematic failure over a period of years to implement an effective anti-money laundering compliance program or file timely and accurate reports—notwithstanding a number of unusual or suspicious transactions conducted in connection with certain Banco Popular accounts.

Through their involvement with cases like these, the Division's attorneys continually enhance their expertise and familiarity with complex issues, and share that knowledge with their colleagues around the country.

## **B. DRUGS: We have led the effort to dismantle the largest and most sophisticated drug organizations that threaten our Nation**

*[O]ur message to all drug dealers [is]: Regardless of where you are, we will find you, prosecute you, and punish you.*

- Attorney General John Ashcroft, May 6, 2004

**Our strategy in the fight against drugs.** The Criminal Division works with our partner agencies to fight the flow of illegal drugs into our country. We apply our expertise and our national perspective to help set the national strategy for combating drug crime. Our approach is a carefully calibrated one: by identifying the largest and most sophisticated drug trafficking organizations, and by targeting the highest rungs of their leadership structures for arrest and prosecution, we make the best use of our resources and strike the heaviest blows possible against the drug trade. Instead of simply weakening drug

networks and allowing them to re-grow, we seek to dismantle and destroy them completely. Because our strategy is most effective when implemented with the cooperation of our foreign partners, we continually maintain relationships and create new ones with our counterparts abroad. Finally, we employ our attorneys' wide range of expertise to attack all of our targets' criminal activities—including terrorism and money laundering—and to cripple them in any way possible, including forfeiture of their assets.

**Aiming for the leaders of the most dangerous organizations.** We have focused our efforts on those organizations listed by the Attorney General as “Consolidated Priority Organization Targets” (“CPOTs”), which include the “most wanted” of the drug trade—the major international manufacturers, smugglers, distributors, and money launderers who pose the greatest threat to the U.S. We seek not simply to weaken these organizations by attacking their lowest-ranking members or even middle management, but rather to destroy these enterprises by aiming for their most senior leaders and strategists. **Our Narcotic and Dangerous Drug Section prosecutors have indicted four CPOTs in the past year alone.**

**A broad array of experts to fight drugs.** The Division brings a broad array of specialists and resources to bear on this effort. Naturally, our experts in drug prosecutions and investigative techniques form a key part of our team. But many other Division specialists help strategize and execute methods of attacking these criminal enterprises on multiple fronts. Our close ties to partner agencies enable us to formulate and execute coordinated strategies that incorporate all relevant resources.

The Division recognized members of the DEA's Special Operations Division (SOD), along with NDDS attorneys **Michael Cauley, George Fruchterman, Robert Raymond, Ronald Rodgers, Rebecca Springer, and Joseph Uberman**, and OEO attorney **Jennifer Underriner**, with the **Intra-Departmental Cooperation Award** for their hard work, devotion to the counter-narcotics mission, and for setting the gold standard for **seamless and effective teamwork**. SOD works closely with federal prosecutors across the country in the OCDETF program to disrupt and dismantle domestic narcotics trafficking organizations by implementing and supervising a coordinated strategy involving multi-jurisdictional wiretap investigations.

- **Wiretap Jumpout Team.** In addition to responding to requests for substantive and procedural advice from the field, the Division sometimes deploys its narcotics crime experts directly to the field. An innovation recently added to the Department's arsenal in the fight against drugs is the Division's

The field has responded enthusiastically to this cutting-edge assistance. **Robin Gerstein, an attorney on the wiretap jumpout team**, recently won an **award** for her outstanding service and dedication **from the International Narcotic Enforcement Officers Association**. She was recognized for her assistance to ICE and the U.S. Attorney's Office for the Eastern District of New York in a wiretap investigation regarding corrupt baggage handlers at JFK airport.

“Wiretap Jumpout Team.” This team of attorneys is deployed around the country at the request of U.S. Attorneys’ Offices to secure wiretap orders in narcotics cases of national priority. Since the team’s creation in October 2003, these attorneys have already assisted more than a dozen districts in 50 separate wiretap investigations, securing over fifty wiretap orders.

The Division’s appellate specialists also help to secure justice in specific narcotics cases of particular significance. For example, Deputy Chief **Robert Erickson** of the Appellate Section received the Division’s “**Special Commendation Award**” for his exceptional eleven-year effort to sustain the convictions and death sentences for three drug traffickers and murderers in *Roane*.

In 1993, defendants Roane, Tipton, and Johnson were convicted of numerous murders arising out of their drug trafficking operations and sentenced to death. Their convictions and capital sentences were affirmed on direct appeal, but on collateral review, the district court set aside Roane’s capital sentence for ineffective assistance of counsel. On appeal, the Fourth Circuit reversed, accepting Deputy Chief Erickson’s argument that Roane had received effective assistance during the penalty phase, and reinstated his death sentence.

**Following the money.** Large drug trafficking organizations, like any enterprise, rely on a steady flow of funds to maintain their operations. Our AFMLS attorneys help us trace and cut off these lifelines; seizing a trafficker’s money not only punishes him, but also deprives him of the operating capital he needs to run his illicit business.

- On March 23, 2004, the Department of Justice presented the government of Colombia with a \$13.3 million check representing the sharing of assets forfeited from a Colombian drug kingpin. The money turned over will be used to benefit critical law enforcement programs in Colombia, including aid to anti-drug operations, prosecutions, the purchase of new equipment, and construction projects. The drug kingpin, Jose Gonzalo Rodriguez Gacha, was indicted on heroin trafficking charges in the Southern District of New York in 1989. However, Gacha was killed before authorities could arrest and extradite him to

OCDETF recognized **Alice Dery** of the Asset Forfeiture and Money Laundering Section (AFMLS) for her work in nearly single-handedly **developing OCDETF’s state-of-the-art financial investigations training**. She spent a year designing a week-long, cutting-edge program. Division attorneys are scheduled to conduct this training 21 times between now and December 2005; it **will reach approximately 2,100 OCDETF prosecutors and agents**.

OCDETF recognized **Mike Davitt**, Deputy Chief of the Asset Forfeiture and Money Laundering Section, with its **Exemplary Service Award** for his leadership of “FIND IT,” the Financial Investigations National Database Information Tracker—a **central electronic library of drug-related financial information**. This is a **state-of-the-art database** that combines the financial records of all major grand jury money laundering investigations nationwide in a single place.



the U.S. The Division, through AFMLS, maintains an active program of international sharing of forfeited assets with countries whose law enforcement has assisted in the investigation and litigation leading to the forfeiture.

OCDETF, aided by the Division, has seized and forfeited successfully more than **\$350 million in cash and assets of drug traffickers** since the start of FY 2003. Since the inception of the Assets Forfeiture Fund in 1984, which the Division's AFMLS administers, approximately \$8 billion in net proceeds have been deposited into the fund, about \$3.4 billion of which has been shared with state and local law enforcement

**Links between terrorism and drug trafficking.** We have also long recognized a relationship between drug trafficking and terrorist activities. On the one hand, drug traffickers gain access to weapons, protection, and other skills that terrorist groups offer. On the other, terrorists gain access to a significant flow of funds to support their deadly work. Our efforts to battle narco-trafficking are discussed earlier in the report.

The current crisis in Afghanistan vividly illustrates the dangers created by a flourishing drug trade. The opium trade in Afghanistan, recently valued by the United Nations at \$2.8 billion—or more than 60 percent of Afghanistan's gross domestic product—generates funds that can be used to support insurgents and terrorists. The drug trade also discourages farmers from growing legal crops and thereby hinders the development of a robust economy and a stable democracy. Thwarting such progress makes it easier for terrorists to conceal themselves, plan and conduct attacks, and win recruits to their cause. Working together, our narcotics and counterterrorism experts identify narco-terrorism links and seek to dismantle all of the organizations involved.

**International cooperation.** Finally, just as criminals' networks span multiple countries and continents, so must our own. Fighting drug crime must continue to be a multinational effort; we must do our part to encourage and assist our allies in the collective effort to eradicate the drug trade. When our investigations and prosecutions require the help of foreign governments, the Division's OIA works closely with their counterparts abroad to bring criminals to justice. We also have "boots on the ground" who provide invaluable training and assistance to foreign police and prosecutors in narcotics enforcement and financial tracking techniques through ICITAP and OPDAT. For example, some Division members recently established, equipped, and trained personnel

In 2004, NDDS attorney **Glenn Alexander** received the **Attorney General's Award for Distinguished Service** for his contributions to Operation Millennium. This operation was part of the dismantling of a Colombian-based transportation consortium believed responsible for supplying between **20 and 30 tons of cocaine per month to the U.S. and Europe**. Much of the evidence against the defendants resulted from judicially-approved wiretaps and investigative work undertaken by Colombian law enforcement in response to a U.S. request for assistance, facilitated by Glenn and other Division attorneys, under the Vienna Convention.

in Colombia's new national forensics laboratory system, which has already been instrumental in securing several significant convictions, and developed an asset forfeiture/money laundering task force to pursue the proceeds and instrumentalities of international criminal organizations operating in that country. Our attorneys abroad provide another benefit: they relay real-time intelligence back to the Department as to what foreign drug traders are up to today and tomorrow.

- The **Bilateral Case Initiative (BCI)**—supported by the Division's Narcotic and Dangerous Drug Section, the DEA Office of Foreign Operations, the Special Operations Division, and the interagency Linear Approach Committee—supports investigations of the operations of drug trafficking and drug-related money laundering organizations outside the U.S. for prosecution inside the U.S., sending a strong message to major traffickers worldwide that they cannot hide from prosecution. BCI partners, together with the Colombian National Police and the DEA's Bogotá Country Office, have gathered evidence overseas to build prosecutable cases in the U.S. leading to over 50 convictions. The majority of the indictments obtained have been against high-level Colombian FARC, AUC, and cartel members, including members of the Attorney General's Consolidated Priority Organization Target (CPOT) list.
- For example, on December 4, 2004, **Gilberto Rodriguez-Orejuela, a founder of the Cali drug cartel** in Colombia and a named CPOT, arrived in Miami from Colombia and was **transferred to U.S. custody**. Rodriguez-Orejuela has been indicted on drug charges in both the Southern District of Florida and the Southern District of New York. The Division's narcotics and international experts worked with OCDETF to bring this defendant a significant step closer to justice.

**Investigative and surveillance techniques.** Successful investigations of drug trafficking, like any sort of criminal investigation, often require the advice of our experts in investigative and surveillance techniques. Three recent cases illustrate the impressive results achieved by the Division's multifaceted approach to large drug organizations:

**Norte Valle Cartel.** In May 2004 the Attorney General announced the unsealing of RICO charges against nine leaders of **one of Colombia's most powerful cocaine-trafficking organizations**, including a cartel allegedly

The Division's experts in OEO handled a **record number of Title III electronic surveillance requests** from the U.S. Attorneys' Offices during FY 2003 and thus far in FY 2004. **For FY 2003, we reviewed 2,150 Title III applications**—684 more than FY 2002's total (1,466)—and more than we had ever done before. FY 2004 has also been busier than past years, with our experts' review of Title III requests continuing on a record-setting pace. Despite the large increase in applications, the Division's review of Title III requests has been maintained at the highest level of quality.



responsible for exporting more than 500 metric tons of cocaine worth more than \$10 billion from Colombia to the U.S. since 1990.

Three of the charged defendants have been designated as among the “most wanted” international drug trafficking targets by federal law enforcement. In addition, one of the defendants has been added to the FBI’s “Ten Most Wanted” Fugitives list. The Division’s NDDS organized the prosecution effort, with the assistance of three United States Attorney’s Offices—the Southern District of New York, the Eastern District of New York, and the Southern District of Florida.

The Norte Valle Cartel is responsible for bringing into the United States **one-third to one-half of the cocaine that reaches our shores.**

*DEA Administrator Karen Tandy, May 6, 2004*

- The cartel used violence and brutality to further its goals, including the murder of rivals, individuals who failed to pay for cocaine and associates who were believed to be working as informants. Cartel members used the Autodefensas Unidas de Colombia (AUC), which the Secretary of State has designated a Foreign Terrorist Organization (FTO), to protect the cartel’s drug routes, its drug laboratories, and its members and associates. Cartel leaders allegedly bribed and corrupted Colombian law enforcement and Colombian legislators to, among other things, attempt to block the extradition of Colombian narcotics traffickers to the U.S. to be prosecuted for their crimes. Cartel members even conducted their own wiretaps in Colombia to intercept the communications of rival drug traffickers and Colombian and U.S. law enforcement officials.
- A great many Division specialists – in NDDS, OCRS, CTS, OIA, OEO, and AFMLS—contributed their expertise to this investigation and indictment, and will continue to do so until these defendants have been brought to justice.
- **Operation Candy Box.** In March 2004 the U.S. and Canada conducted a joint takedown of the Wong Ze Wai drug trafficking organization, arresting over 100 individuals in New York, Texas, California, Michigan, Iowa, Georgia, Tennessee, Louisiana, and Canada. The Division’s experts in cross-border

Major drug trafficking organizations are being targeted and dismantled, and drug use among youth is declining. **Of the 58 major drug trafficking organizations in the world, we have destroyed 14 and 8 more have been severely disrupted.** NDDS lawyers have **indicted 17 of the Attorney General’s most wanted drug traffickers on the CPOT list—nearly 30 percent of the total high-priority targets.** **Cocaine production is down 30 percent.** Drug use among America’s youth is declining at record levels, including an 11 percent drop in drug use among 8<sup>th</sup>, 10<sup>th</sup>, and 12<sup>th</sup> graders—the first drop across all three grades in a decade. The number of new users of Ecstasy and LSD also dropped dramatically in the past year—the steepest drop in the past 50 years. In fact, the number of new LSD users is at its lowest point since the late 1960s.

investigations worked collaboratively with the Canadian prosecutors and investigators during the operation and submitted requests to Canada for the provisional arrest of 14 individuals, most of whom, including Wong Ze Wai, were arrested. The investigation has revealed that since June 2001 the Wong Ze Wai organization has manufactured millions of MDMA (Ecstasy) pills in Canadian laboratories, imported and distributed the pills into and within the U.S., and arranged for the proceeds to be collected and laundered back to the organization's leadership in Canada through a sophisticated network of money remitters and travel agencies in the U.S. and Canada. The Division's experts in NDDS, OIA, OEO, and AFMLS all contributed to this successful operation, **after which the Department witnessed a nationwide rise in Ecstasy prices.**

- **Operation Double Trouble** was a major money laundering investigation out of Miami, which decimated the financial network of CPOT target Ivan Henao. Operation Double Trouble represents the next generation of money laundering investigations because of its use of significant electronic surveillance coverage in coordination with undercover operations, and a focus away from the "downstream" peso brokers and their customers (which are the typical focus of money laundering investigations because the targets are more exposed), and toward the higher "first tier" money brokers and their customers, the drug traffickers. Many defendants have pleaded guilty since arrests began in August 2003 and one defendant was convicted after trial in May 2004. We are still arresting fugitives, and all but one Colombian has now been extradited to the U.S. The next trial, of four extraditees from Colombia, is scheduled to begin in early 2005.

In 2004, the team that conducted **Operation Double Trouble**, including AFMLS's **Mia Levine** and **John Sellers**, received **OCDETF's Outstanding Financial Investigation Case Award** for their work.

### **C. OBSCENITY, CHILD PORNOGRAPHY, and CHILD PROSTITUTION: We spearheaded the fight against obscenity and sex crimes against children**

*Sexual predators use the Internet to distribute child pornography and obscenity. They use the Internet to engage in sexually explicit conversations. They use the Internet to lure children out of the safety of their homes into harm's way. Every day, millions of children log on to the Internet, and every day we learn more about the evil of the world that has crept into it. In a single year, one in four children between the ages of 10 and 17 is [. . .] involuntarily exposed to pornography. That's one in four children. One in five children receives a sexual solicitation over the*

*Internet. One in 17 children is threatened or harassed. We've got a widespread problem, and we're going to deal with it.*

- President George W. Bush, October 25, 2002

*When a child is exploited or mistreated, and that natural spark in their eyes is diminished, our world is diminished . . . Every child deserves the opportunity to be cared for and loved. Every child deserves the opportunity to grow up safe, strong and free. That is our goal.*

- Attorney General John Ashcroft, May 20, 2003

**We have an aggressive strategy to fight sex crimes against children and obscenity.** The Division works to eradicate the scourge of sex crimes against children and to prevent the irreparable harm that these deplorable crimes inflict on society's most vulnerable members. We have retooled our national enforcement strategy by focusing not only on the consumers of child pornography, but also on producers and distributors. By attacking all aspects of child pornography and obscenity, we further weaken the industry as a whole and maximize our chances of identifying and prosecuting all of the individuals involved. Not only do we use criminal prosecutions to halt these crimes, but we also use forfeiture to put illegal networks out of business. We have developed the technological skill and investigative expertise to pursue criminals online, where many sexual predators lurk and distribute images of child abuse. And we continue to work with our partner agencies, both here and abroad, to devise creative ways to protect America's children.

Our attorneys also spearhead the Administration's efforts to bring obscenity prosecutions nationwide. By taking the lead in these specialized and important cases, Criminal Division attorneys have gained valuable expertise that is unique within the Department.

During the past year, attorneys in the Division's Child Exploitation and Obscenity Section (CEOS) have secured 44 convictions—29 child exploitation-related and 15 obscenity-related convictions. We secured substantial fines, penalties, and forfeiture in these cases. Some of the convicted defendants have been sentenced to substantial prison terms. For example, **Dwight York**, a cult leader convicted of various offenses including transporting minors for sex, was sentenced in April 2004 to the statutory maximum of **135 years in prison**. York, who molested and sexually abused countless minor aged children within his organization, also forfeited a 440-acre property and an eight-bedroom mansion in Georgia. **Angel Rafael Mariscal**, a prolific producer and seller of child pornography videos, was convicted and sentenced in September 2004 to **100 years in prison**, the statutory maximum. **John Kenneth Coil**, who operated 20 hardcore pornography stores in Texas, pleaded guilty in June 2004 to mail fraud

and distribution of obscenity. He was sentenced in September 2004 to 63 months in **prison and ordered to forfeit an estimated \$8.1 million in property.** As these cases show, we are achieving real results.

- **Refocused efforts.** The Division is fortunate to have some of the nation's most innovative and aggressive prosecutors of sex crimes against children. Led by these attorneys, the Division has increased its focus on producers and distributors of child pornography; traditionally, law enforcement has failed to target these members of the industry and directed its efforts almost entirely at consumers.

- **Regpay prosecution.** Partnering closely with the United States Attorney's Office for the District of New Jersey, CEOS attorneys are critically involved in the only known prosecution of a large, international, and commercial organization of child pornographers and credit card processors. The indictment, unsealed in January, charges: (1) Regpay Co., Ltd, a major Internet processor of subscriptions for third-party commercial websites, (2) its principals, and (3) Connections USA, a company that provided Regpay with credit-card processing services, with child pornography and money laundering offenses.

CEOS, along with cybercrime specialists in the Division's CCIPS, worked tirelessly to make this strong case. Also, thanks in part to AFMLS, the indictment seeks forfeiture of the profits derived by these defendants from the abuse of children depicted in the child pornography images sold on the websites serviced by Regpay and Connections USA. Using the services of Connections USA, Regpay allegedly processed over \$3 million in credit card payments for hundreds of websites, many of which provided child pornography. According to the indictment, Regpay and its principals also ran at least five commercial child pornography websites themselves, which account for about 25 percent of the credit card payments processed by Regpay. Connections USA pleaded guilty to money laundering in May 2004 and surrendered the use of its Internet domain name. French and Spanish authorities, working in conjunction with U.S. law enforcement, have arrested three Belarusian principals of Regpay abroad.

In June 2004, thanks to the efforts of the Division's experts in international investigations in OIA, Spanish authorities extradited one Belarusian defendant, Alexander Boiko, to stand trial on child pornography and money laundering charges in the District of New Jersey. Two other extradition requests, also facilitated by OIA, are pending.

- **Use of innovative and high-tech investigative tools.** Because more and more of these criminals have begun to use the Internet to facilitate their sexual exploitation and trafficking, the Division's CEOS stood up in July 2003 a **High-Tech Investigative Unit (HTIU)**, which actively conducts **on-line investigations to identify distributors of obscenity and child pornography**. The HTIU lends significant computer forensic expertise to the field in investigating these crimes. Crimes such as the production and distribution of child pornography, online enticement of minors, and child sex tourism are being committed with overwhelming frequency through computers and the Internet. The Internet provides pedophiles with a readily available and easy means to communicate regarding their shared interests, while affording apparent anonymity, particularly for those with computer savvy. Often, criminals are beating law enforcement to the punch by having a finger on the pulse of new technology and an ability to readily implement that technology. The HTIU works to anticipate new technology, understand it, and analyze how it will be used to facilitate child exploitation and obscenity crimes. Furthermore, the HTIU has developed ground-breaking computer programs to expedite the analysis of computer evidence. Identifying and tracking the most sophisticated offenders often requires the HTIU's cutting-edge computer equipment and software.

➤ **Noel Custer prosecution.** The HTIU played a critical role in analyzing a defendant's computer. The case agent asked CEOS to examine Custer's computer when the subject confessed that he had **molested his granddaughter when she was three years old**, and had taken Polaroid pictures of her that he later destroyed.

**CEOS and its HTIU are the nation's primary source of obscenity investigations.** The HTIU reviews an average of more than 100 citizen complaints per month—at times more than 600 in a month—to populate a criminal intelligence database and to initiate investigations when appropriate. **In just a six-month period this past year, the HTIU initiated 33 website investigations** in priority areas: obscenity, misleading domain names, violations of Section 2257 (which imposes record-keeping requirements on producers of sexually explicit material), and child pornography.

Images recovered from the computer were matched with hard copy printed images that had been distributed to another person. The HTIU identified MSN communities—previously undetected—that Custer created to distribute child pornography. Thanks to the HTIU's speedy forensic analysis, Custer was indicted in the Southern District of Alabama on seven counts **of distribution, and one count of possession, of child pornography**. He pleaded guilty to these charges and in July 2004 was **sentenced to nine years in prison**. For his work on this case, the HTIU's manager

received a certificate of commendation from FBI Director Robert Mueller.

- **F-Serve Initiative.** Recognizing the ease with which offenders can trade child pornography over the Internet using file-serving applications, CEOS launched an initiative in November 2004 to target individuals running file servers or “f-serves.” These offenders lurk on Internet relay chat (IRC) channels that appeal to people who are interested in child pornography, and advertise their interest in receiving and distributing child pornography images. An interested user, using f-serve software, can access the advertising user’s computer file directory, and after uploading a certain number of bytes of images to that user as “credit,” can then download child pornography. In this way, f-serves distribute significant amounts of child pornography throughout the world. As part of its new initiative, CEOS will seek to establish a protocol for investigating f-serve cases and to identify targets for investigation that are currently advertising on known child pornography IRC channels.

- **Justice prosecution.** In October 2004 **Brian Scott Justice** was arrested in Louisiana for operating a file server to advertise and distribute child pornography. The FBI initially identified Justice operating a file server in August 2004 on a known child pornography IRC channel. A search warrant was served on his former Indiana residence; **on-site computer forensics, conducted in part by the HTIU, revealed that Justice had taken the hard drive operating his f-serve with him.** With a minimal lead and dedicated efforts, the FBI located Justice that evening at his place of employment **before any evidence could be destroyed.**

After obtaining another search warrant, Justice’s Louisiana residence was searched and three hard drives were seized. Justice had been using them to operate his f-serve, and they likely contain fresh evidence regarding other offenders. The HTIU worked feverishly after the search to write and deploy **a unique computer program designed to extract and analyze data in a way that will enable prosecutors to track down other offenders.** This program will be invaluable in future f-serve investigations.

Justice was charged by complaint in October with sending multiple images of child pornography over the Internet to an undercover FBI agent. These images allegedly depict prepubescent females engaged in explicit sexual activities with an adult male. Justice also allegedly collected child pornography for the past five years and presently possesses over 20,000 computer image files of child

pornography. Finally, the complaint alleges that he placed advertisements for the distribution of child pornography through the Internet. CEOS is prosecuting the case with the U.S. Attorney's Office in the Southern District of Indiana. If convicted, Justice faces a mandatory minimum 15-year sentence for the advertising offense and a mandatory minimum of 5 years for the distribution offense.

- **Peer-to-Peer (P2P) File-Sharing Initiative.** Beginning in late 2003, the Department, through its State and local Internet Crimes Against Children (ICAC) task forces and their federal law enforcement partners, conducted a number of national initiatives to combat the growing amount of child pornography available on peer-to-peer file sharing (P2P) networks. CEOS played a key role in this effort by participating in training that the FBI conducted for its agents and by drafting model search warrant affidavits for use in P2P cases. The Department-funded ICACs, ICE and FBI identified targets throughout the country that had trafficked child pornography by means of this technology. The offenses committed ranged from possession to distribution of child pornography, as well as child sexual abuse. Among those investigated were several individuals who have previously been convicted of sex offenses and several registered sex offenders. Some of the offenders were actively molesting children. On May 14, 2004, the Attorney General issued a press release informing the public about these initiatives. As of that date, over 65 individuals had been arrested and charged with crimes as a result of this law enforcement effort.

**“John Doe” indictments and “America’s Most Wanted.”** The **Endangered Child Alert Program (ECAP)**, which began in March 2004 and is conducted jointly by CEOS and the FBI, seeks proactively to identify unknown subjects depicted in images of child pornography engaging in the sexual exploitation of children. Through this effort, CEOS works with U.S. Attorneys’ Offices **to secure the return of “John Doe” indictments** of child pornographers; the deplorable images provide some evidence regarding these criminals that can lead to their identification and apprehension.

ECAP has worked with the television series “America’s Most Wanted” (AMW) to enlist the public’s help in finding and identifying child pornographers. Since ECAP’s inception, five subjects have been profiled by AMW, and with the assistance of tips from viewers, **four have been identified**. More importantly, **31 victim children (so far) in Indiana, Montana, Texas and Colorado have been identified** as a result of this initiative. All of the victims had been sexually abused over a period of years, some since infancy.

Such innovation is producing further results. In November 2004 Ronald McQueen—the **subject of a John Doe indictment** in the Northern District of Texas—**pleaded guilty** to conspiracy to produce child pornography **and was sentenced to the statutory maximum penalty of 210 months in prison**. After a co-defendant videotaped himself sexually molesting two young boys in McQueen’s presence, McQueen downloaded and copied the footage.



- **International investigations.** Many of the Division's child pornography investigations involve subjects around the globe and require coordination and cooperation with foreign law enforcement agencies. Our experts in sex crimes and

The Division's experts in prosecuting sex crimes against children share their knowledge with the field through some of the **most highly rated training seminars** ever given at the National Advocacy Center (NAC) in South Carolina. Just a few of the comments received from participants this past year follow: "Excellent!! This **is the best course offered at the NAC.**" "One of the very best in the 17 years I have been with DOJ." "Best speakers of all the courses I've attended." "Great opportunity to form and ferment ideas, gain new insight and perspectives. **I feel very re-charged about my work.**"

international investigations have been forging and maintaining the relationships necessary to conduct these investigations smoothly, and have been using their experience to anticipate and resolve issues that may arise in this context. These attorneys now routinely manage national and international law enforcement operations in investigations of sex trafficking, sex tourism, and commercial website cases that involve foreign producers, website operators, and consumers.

The Division's experts in sex crimes against children have worked closely with ICE and the FBI to develop **undercover investigations that target Americans involved in the commercial sexual exploitation of children abroad**, one of which recently resulted in indictments of 5 persons for travel to Costa Rica to have sex with minors. **Division attorneys were critically involved in each of the 11 known sex tourism cases** conducted by the Department since the PROTECT Act amended the sex tourism provisions.

For example, CEOS attorneys helped the U.S. Attorney's Office in Maryland with its prosecution of Richard Schmidt, a former Baltimore schoolteacher who, in July 2004 **pleaded guilty to two charges connected to his molestation of a 13-year-old Cambodian boy.** Schmidt **admitted traveling to Asia in 2002 to have sex with boys.** At the time he left the U.S., he was on parole after serving 13 years of his 18-year sentence for sexually molesting minor teenage boys in Maryland; Maryland authorities had issued an arrest warrant for Schmidt after learning that he had been associating with a minor male in violation of the terms of his parole.

Federal agents learned in December 2003 that Schmidt had been arrested and charged in the Philippines and separately in Cambodia with offenses relating to the sexual molestation of young boys in both countries. **The Division's OIA experts worked with Cambodian authorities to arrange Schmidt's deportation to the U.S.** so that he could face a ten-count federal indictment relating to his conduct in Asia. Schmidt has not yet been sentenced.

- Links between child pornography, child prostitution, and sex trafficking.** It should come as no surprise that links exist between child pornography and the international trafficking of children for sexual purposes. Each year, hundreds of thousands of teenage girls, and others as young as five, are bought, sold, or forced across the world's borders and fall victim to the sex trade. With experts in both types of crimes against children, the Division is well equipped to spot and trace connections from one aspect of an organization's criminal activities to another.

In 2004, CEOS attorney **Stephanie Thacker** received the Attorney General's Distinguished Service Award for her exceptional and meticulous prosecutorial effort in the investigation and **conviction of Dwight D. York**. York, the leader of the United Nation of Nuwaubian Moors (UNNM), was convicted of committing a pattern of racketeering activity in which the enterprise transported minors across state lines for the purpose of engaging in criminal sexual activity. York **molested and sexually abused countless children** within his organization, fourteen of whom testified for the prosecution at trial. He was **sentenced in April to the statutory maximum of 135 years in prison**. Also, the government has **seized the organization's 400-plus-acre farm in Georgia**.
- Protecting victims.** Crimes against children are deplorable in large part because of the innocence and vulnerability of the victims. Among the most heinous crimes that the Division prosecutes is **child prostitution**, which subjects young victims to harrowing abuse, day after day. To target this crime, CEOS and the FBI have developed "**Innocence Lost**," an enforcement and training initiative for state and federal law enforcement agencies, prosecutors, and social service providers dedicated to the investigation and prosecution of cases involving child prostitution. The 14 cities originally identified as part of the initiative were: Los Angeles, Minneapolis, Dallas, Detroit, Tampa, Chicago, San Francisco, San Diego, Miami, New York, Washington D.C., Las Vegas, St. Louis, and Atlanta. The pilot training took place for a week in September 2003 and four more programs followed in 2004.

CEOS also developed a regulatory scheme to implement the record-keeping statute, 18 U.S.C. § 2257, which requires producers of sexually explicit materials to keep records of performers' names and ages. This regulatory scheme will provide the backbone for future inspections of such records, which will likely lead to increased prosecutions.

**Stephanie Thacker** also received the **Assistant Attorney General's Award for Outstanding Victim/Witness Service** in recognition of her outstanding work in protecting children through the **Innocence Lost Initiative**. To address the problem of domestic child prostitution, she developed a highly effective, victim-centered initiative that targets the vast network of offenders and provides critical social services and assistance to child victims. She brought together members of the FBI's Violent Crimes and Major Offenders Section and the National Center for Missing and Exploited Children to develop a multi-disciplinary strategy to fight the many problems associated with child prostitution in this country. The major goal advanced by Stephanie was to address the critical needs of the child victims first, which would in turn better enable prosecutors to convict and incarcerate their victimizers.

- **Money laundering and asset forfeiture.** Like any organization, the large and sophisticated producers and distributors of child pornography that we target require significant amounts of operating capital and the means to move funds quickly and easily. Our experts in AFMLS help us trace and seize the ill-gotten gains of these criminal networks.

➤ **Forfeiture of Internet domain names.** For many purveyors of child pornography, their Internet domain names are among their most important profit-generating assets. Therefore, Division specialists in child pornography prosecutions have been targeting these assets in order to put these criminals out of business as effectively as possible. For example, in the **Regpay prosecution** described above, Connections USA—a credit card processor—pleaded guilty to money laundering and surrendered use of its Internet domain name. The government is also seeking forfeiture of other domain names used in the child pornography and money laundering scheme.

- **Support for our allies abroad.** The Division's efforts in fighting child exploitation have been furthered abroad by ICITAP and OPDAT, who assist our foreign allies in training law enforcement personnel. The efforts to halt sex crimes against

The Division has recognized the importance of pursuing criminal organizations' assets through **asset forfeiture laws—to punish wrongdoing, to shut down organizations completely and effectively, and to provide victims with as much redress as possible**. To these ends, AFMLS lawyers recently provided **comprehensive training to our specialists in prosecuting obscenity and child exploitation crimes**, teaching them the most effective way to go after criminal proceeds. Now, where sustainable, **every indictment sought by Division lawyers for these crimes includes an asset forfeiture count**.

children must be a multinational one, because sex trafficking and the creation and distribution of child pornography often span national borders. We have deployed our experts to countries around the globe who have joined us in the fight to protect children; most recently, our attorneys have begun initiatives focusing on child exploitation in Costa Rica.

**Obscenity.** Over the last several years, public outcry about the seeming omnipresence of obscenity, particularly on the Internet, has increased significantly. The invasion of unsolicited pornographic email, or “spam,” seems relentless, and the accessibility of the Internet has resulted in countless children being exposed at unprecedented

levels to egregious sexually explicit materials. CEOS has taken the initiative to prosecute a number of major obscenity offenders whose businesses were based on Internet web sites with the inherent capacity to afford widespread public access. Since the passage of the CAN SPAM Act in 2003, CEOS has also placed significant emphasis on prosecuting pornographic spam cases, another area of substantial public concern.

In FY 2004, the Child Exploitation and Obscenity Section **increased its caseload** (criminal investigations and prosecutions) **by 340%** over FY 2001. This number is particularly impressive in light of the fact that the Section directs its attorneys to perform exclusive functions that the U.S. Attorneys’ Offices cannot. For example, CEOS tracks significant Internet offenders to an appropriate venue and initiates cases there. Many of the most significant offenses would not initially be pursued by an individual district because there often appears to be very little chance that venue would be appropriate in that district at the outset.

Currently, the Division’s prosecutors are some of the few in the Department who are experienced in prosecuting obscenity cases. In the last two years, attorneys in the Division’s Child Exploitation and Obscenity Section (CEOS) have initiated all but two of the pure obscenity prosecutions conducted by the Department. The Division is engaging the country in this effort by initiating obscenity cases in numerous districts across the nation. This expertise is particularly valuable in the highly specialized cases involving the Internet.

Obscenity invades our homes persistently through the mail, phone, VCR, cable TV, and now the Internet. This multi-million dollar industry with links to organized crime has strewn its victims from coast-to-coast. Never before has so much obscene material been so easily accessible to minors. . . . [T]he Department of Justice is committed unequivocally to the task of prosecuting obscenity.

*Attorney General John Ashcroft, June 6, 2002*

The Justice Department is committed to aggressively prosecuting the illegal proliferation of obscene materials through our society.

*Assistant Attorney General Christopher A. Wray, July 29, 2004*

During the past year, CEOS also partnered with FBI agents in the Washington Field Office who have been designated to work exclusively

on identifying and investigating Internet obscenity distributors. The cases generated through this “jump team” will be prosecuted by CEOS trial attorneys, hopefully in conjunction with AUSAs from the relevant districts. This team is hard at work, providing ongoing obscenity investigations with the support they require and doing the legwork necessary to initiate new investigations.

In 2004 alone, CEOS attorneys secured 15 obscenity-related convictions; 12 other obscenity indictments are currently pending. By comparison, CEOS had only 4 obscenity convictions over the entire seven-year period from 1993 through 2000.

A few examples of the Division’s obscenity prosecutions follow:

- Prosecutors from the Division’s CEOS and the Western District of Texas obtained the conviction of John Kenneth Coil—owner and operator of 27 adult-oriented businesses in Texas, New Mexico and Arizona. Coil made millions selling adult obscenity.

The charges stem from his distribution of obscene material and tax evasion relating to the profits of his enterprise. In addition to a 63 month federal prison sentence imposed in September 2004, Coil agreed to forfeit \$8.1 million in property. Several associates of Coil were also convicted.

Kids First Coalition has worked closely with the Bush administration and the Department of Justice to urge a reversal of the Clinton Administration’s policy to ignore obscenity crimes on the internet. I am pleased to say that DOJ listened and is currently actively prosecuting cases that four years ago would have gone unnoticed.

*Testimony of Penny Nance, President of Kids First Coalition, before the House Committee on Energy & Commerce, May 6, 2004*

- In November 2004 an Ohio couple was sentenced to prison on charges of mailing and transporting obscene material. Since 1990, Ronald and Alina Urbassik operated a catalog business that offered for sale hundreds of videotapes and DVDs depicting obscene matter, including sexually explicit conduct involving sado-masochism, defecation, urination, and bestiality. Under the sentencing guidelines, Ronald received a year and a day in prison, and Alina was sentenced to four months in prison.
- In May 2004 in Dallas, three defendants were indicted on charges related to their operation of a business that sold obscene videos on the internet. As outlined in the indictment, the men sold videos that depicted rape scenes and sexual torture, and posted graphic descriptions of the material on their website. They are awaiting trial.
- In August 2004 in Montana, Gary Robinson was sentenced to a year and a day in prison in connection with his guilty plea to charges of transporting obscene matters. In the course of running a business named “Suzie’s

Corral,” Robinson shipped videotapes that depicted sexual intercourse between humans and animals and other obscene sexual activity.

**D. CYBERCRIME: We have led the prosecution and deterrence of intellectual property theft and computer crimes**

*[I]f intellectual property unleashes our nation's potential, its theft diminishes our nation's and our citizens' possibilities. Intellectual property crimes threaten our nation's economic security, the health and safety of our citizens, even our national security. Our response to this threat must be every bit as forceful and aggressive as our response to terrorism, violent crime, drugs, and corruption.*

- Attorney General John Ashcroft, October 6, 2004

*The wide range of investigations reflects law enforcement's commitment to investigating and prosecuting all types of online crimes, from identity theft to computer intrusions, from Internet fraud to intellectual-property crimes. The Criminal Division and its partners throughout law enforcement remain committed to responding aggressively to online crime, whatever form it may take.*

- Assistant Attorney General Christopher A. Wray, August 27, 2004

**We have an aggressive strategy to combat cybercrime and intellectual property theft.** The Criminal Division, led by its experts in the Computer Crime and Intellectual Property Section, continues to make great strides in the Department's campaign against cybercrime and intellectual property theft. We are targeting large, complex criminal organizations that commit intellectual property crimes, in order to strike at those who pose the greatest threats to our public safety and our economy. We help maintain national security by bolstering our defenses of critical infrastructure; computer security is vital to protecting a wide range of industries, including electric power, oil and gas, water, chemicals, and pharmaceuticals. Cybercrime networks are not limited to particular districts or jurisdictions; they often span the country or even the world. Similarly, the Division uses its broad national and international perspective to manage comprehensive, worldwide investigations of computer crime. We work closely with U.S. Attorneys' Offices and their Computer Hacking and Intellectual Property (CHIP) units, coordinating investigations and lending our expertise. Our attorneys maintain the relationships with foreign counterparts necessary to continue our cooperative enforcement efforts. We also develop partnerships with the private sector and industry groups to prevent cybercrime as effectively as possible.

As stated in the recently released Report of the Attorney General's Intellectual Property Task Force, the theft of intellectual property takes a tremendous toll on our collective economic and physical well-being. Intellectual property theft threatens not only the very foundation of a dynamic, competitive, and stable economy, but can also put our health and safety at risk. Counterfeit products—such as prescription drugs, automobile and airplane parts, and insecticides—are often dangerous products as well.

The intersection of the Internet and intellectual property theft presents us with further and continuing challenges. Just as the Internet has transformed the way we conduct business, run governments, educate, and communicate, these networks have also provided a powerful new medium in which to commit unlawful acts. The Internet provides thieves, con artists, extortionists, vandals, and other criminals with a formidable tool to commit traditional and new crimes. Because end users are spread across the world, a single scheme through the Internet can reach a vastly larger pool of potential victims and consumers than was possible a decade ago, at a far lower cost and unprecedented speed. The Internet can also provide a level of anonymity that is difficult or impossible to achieve except in cyberspace.

Combating computer-based crimes requires investigators, forensic experts, and prosecutors with technical expertise. Unlike law enforcement agents fighting traditional crime, these individuals not only need to know how to investigate or prosecute a crime, but must also have specialized skills and training in computers and technology. They must be sufficiently conversant with technology to ensure that evidence is not lost or overlooked. The Division's experts help provide this specialized knowledge.

The success of **Operation Fastlink** illustrates the importance and innovation of the Division's efforts to fight intellectual property theft. In April 2004 the Attorney General announced the tremendous success of Operation Fastlink, **the largest, most far-reaching and most aggressive enforcement action ever undertaken against criminal digital theft**. On April 21, over a 24-hour period, spanning multiple time zones, law enforcement executed simultaneously over **100 search warrants worldwide**, including 80 here in the U.S., on members of some of the most prolific international Internet software piracy release groups. The Division's experts in computer and intellectual property crime and international investigations have worked closely with the FBI and foreign counterparts to achieve unprecedented levels of international coordination in this world-wide enforcement.

In addition to attacking piracy globally, Operation Fastlink struck at all facets of the illegal theft of software, games, movies, and music online. The investigations focused on individuals and organizations, known as "warez" groups that specialize in the Internet distribution of pirated materials. Warez groups are the first-providers—the original source for most of the pirated works



traded or distributed online. Once a warez group prepares a stolen work for distribution, the material is distributed in minutes to secure, top-level servers and made available to a select clientele. From there, within hours, the pirated works are further distributed throughout the world, ending up on file sharing networks accessible to anyone with Internet access.

Operation Fastlink also resulted in the seizure of more than 200 computers, including 30 servers that functioned as storage and distribution hubs. Conservative estimates of the value of the pirated works seized easily exceed \$50 million, and conservative projections of the losses to industry attributable to these distribution hubs are in the hundreds of millions of dollars. **More than 85 new CCIPS-led domestic prosecutions have been generated by the April 2004 takedown.** Four CCIPS attorneys are handling the new prosecution caseload, including spin-off investigations from cooperating defendants.

**Peer-to-peer (P2P) online theft: Operation Gridlock.** Several months later, the Attorney General announced the success of Operation Gridlock, the **first federal enforcement action ever taken**

**against criminal copyright theft on peer-to-peer networks.** The Division's computer crime experts have provided careful guidance throughout the investigation, which targets the illegal distribution and reproduction of copyrighted music, movies, software, and games, over peer-to-peer networks.

During the execution of **Operation Fastlink**, **CCIPS attorneys manned the FBI Command Center through the night** in order to coordinate and oversee the execution of search warrants around the world. CCIPS attorneys also **traveled overseas months in advance** to present cases to foreign law enforcement and coordinate the simultaneous global takedown.

In August 2004 the FBI executed six search warrants in Texas, New York, and Wisconsin at five residences and one Internet service provider. The warrants targeted five peer-to-peer networks; agents seized computers, software, and computer-related equipment. Virtually every kind of software, game, movie, and music was available for illegal downloading and distribution on these networks

On these 5 networks alone, **more than 40 terabytes of material** was available to be distributed and trafficked by the users on any given day. Forty terabytes' worth of data is the approximate equivalent of: (1) Four times the print collection in the Library of Congress; or (2) 60,000 movies; or (3) 10 and a half million songs. Theft through the illegal reproduction and distribution of music, movies, software, games, and published works is estimated to cost U.S. industries \$19 billion worldwide each year.

**Operation Web Snare.** In August 2004 the Attorney General announced the arrests or convictions of more than 150 individuals and the return of 117 criminal complaints, indictments, and informations in a collaborative nationwide enforcement operation directed at major forms of online economic crime and

other cybercrimes. This initiative combined the efforts of the Division's cyber experts with those of 36 U.S. Attorneys' offices nationwide, 37 of the FBI's 56 field divisions, 13 of the Postal Inspection Service's 18 field divisions, the FTC, together with a variety of other federal, state, local and foreign law enforcement agencies.

Operation Web Snare is targeting a variety of online economic crimes including identity theft, fraud, counterfeit software, computer intrusions, and other intellectual property crimes. The cases involved show the extent to which alleged online criminal activity increasingly is not only multi-jurisdictional, but involves the blending of traditional crimes with various forms of computer crime, such as computer intrusion and malicious computer programs.

**More than 160 investigations have been opened as part of Web Snare**, which ran from June 1 to August 26, 2004. Investigators have identified **more than 150,000 victims** with estimated losses of more than \$215 million. More than 140 search and seizure warrants were executed as part of the operation, and prosecutors have obtained 117 criminal complaints, informations, and indictments to date. The charges have led to **more than 150 arrests or convictions**.

**Phishing.** The Division's experts in Fraud and CCIPS have worked together to combat a new form of online fraud known as "phishing." Phishing is a form of identity theft in which criminals use emails and websites, designed to resemble those of legitimate companies and financial institutions, to persuade people to disclose their personal and financial data such

as Social Security numbers and bank and credit-card account numbers. Regulators are targeting phishing because it can fool even savvy Internet users. Phishing is an especially fast-growing form on online identity theft: In the first six months of 2004, according to the Anti-Phishing Working Group, an industry coalition, the **number of unique phishing attacks increased by more than 800 percent**—from 176 in January 2004 to 1,422 in June 2004.

**Internet fraud and the CAN-SPAM Act of 2003.** In January 2004 the Controlling the Assault of Non-Solicited Pornography and Marketing (**CAN-SPAM Act of 2003**) became effective. **The Division's experts in computer crime and sex crimes against children were key participants in the drafting of the Act**, which criminalizes the sending of multiple commercial electronic mail messages with materially false or fraudulent return addresses. Several prosecutions have already been brought in various districts and the first conviction was obtained in Los Angeles. CCIPS prosecutors advised the prosecution.

The Division has assisted efforts throughout the nation to crack down on phishing. For example:

- **AOL and Paypal phishing in Texas** (partnership between

Identity theft is the single greatest type of consumer fraud, and phishing is the identity theft du jour.

*Assistant Attorney General Christopher A. Wray, March 24, 2004*

CCIPS and the U.S. Attorneys' Offices for the S.D. Texas and E.D. Virginia). An Internet scammer who used e-mail and a fraudulent Web site to steal hundreds of credit card numbers was sentenced to almost four years in jail. The sentence is "one of, if not the longest" ever handed down against an e-mail scammer, said DOJ spokesman Michael Kulstad.

Zachary Hill used a "phishing" scheme to make his e-mail look like it came from AOL, the nation's largest Internet service provider, or PayPal, the online payment subsidiary of auction giant eBay. The message told victims that their accounts had lapsed and that the companies required their credit card numbers and passwords to restart them.

Hill prompted recipients to enter their information into Web forms designed to look like pages run by the companies. Hill then used the credit card numbers to buy \$47,000 in goods and services.

- **AOL phishing in Ohio** (partnership between CCIPS and E.D. Virginia). In January 2004 Helen Carr of Ohio was sentenced to 46 months in prison for phishing credit card numbers from AOL. She pleaded guilty last October to one count of conspiracy for her role in a scheme that sent mass e-mails to AOL subscribers purporting to be from the company's security department. The messages claimed that AOL's last attempt to bill the recipient's credit card had failed, and included a link to an "AOL Billing Center" web page, where an online form demanded the user's name, credit card number and other information.

The scheme began to unravel in February 2001 when Carr unwittingly spammed an off-duty FBI agent with the Norfolk, Virginia field office. The agent, a computer crime specialist, was not taken in by the scam mail and initiated an investigation. George Patterson, a co-conspirator, was himself sentenced to 37 months in prison in July 2003.

- **Consumers' guide to phishing.** The Division's experts in Internet fraud have authored a report on phishing, designed to educate the public and protect Americans from this fast-growing type of crime. The Department has published this valuable report at [www.usdoj.gov/criminal/fraud/Phishing.pdf](http://www.usdoj.gov/criminal/fraud/Phishing.pdf).

**Cyber intrusions.** The Division's cybercrime experts also specialize in the theft of data by those who hack into corporate computer systems. For example, in July 2004 prosecutors from CCIPS and the Eastern District of Arkansas secured the indictment of Scott Levine in connection with his **theft of vast amounts of personal information from the databases of Acxiom Corporation.** The case **may be the largest theft of personal data to date;** Levine's conduct is alleged to have resulted in the loss of more than \$7 million of data.

Levine owned a Florida company named Snipermail that engaged in the business of distributing advertisements via the Internet to e-mail addresses on behalf of advertisers or their brokers. He allegedly hacked into a computer database owned and operated by Acxiom, one of the world's largest companies that manage personal, financial, and corporate data. The indictment also alleges that Levine and others actively concealed computers from investigators during the course of the investigation in order to hide their illicit activity and avoid prosecution.

**Identity theft.** Identity theft has become one of the fastest-growing forms of white-collar crime in the United States. It is a particularly insidious form of crime for three reasons. First, by using other people's identifying data to access bank or financial accounts, obtain mortgages on others' property, or buy property in others' names, identity thieves can **cause individuals and businesses substantial economic losses**. According to the FTC survey, businesses lost \$47.3 billion, and individuals lost an additional \$5 billion, to identity theft in the preceding year. Second, identity theft enables criminals to **create false trails and mislead law enforcement authorities about their true identities**. Third, identity theft can also **cause its victims significant additional harm**, such as damage to the victims' credit ratings and reputations.

According to a September 2003 survey commissioned by the Federal Trade Commission (FTC), nearly **10 million Americans** were victims of identity theft in the year preceding the survey. Moreover, identity theft has become the leading type of consumer fraud complaint filed with the FTC. From 2001 to 2003, **identity theft complaints nearly tripled**, rising from 86,212 in 2001 to 214,905 in 2003. Moreover, in the preceding year, **identity theft victims spent nearly 300 million hours—an average of 30 hours per victim—trying to resolve their identity theft-related problems**.

In response to the rising tide of identity theft, both in the United States and abroad, since 2002 the Department and the Division have carried out a three-pronged initiative to combat identity theft: (1) vigorous and coordinated efforts to prosecute significant cases of identity theft; (2) development of legislation to address the most serious cases of this crime and to provide greater protection to the public; and (3) coordinated training for law enforcement on identity theft investigation and prosecution, and support of public education and prevention initiatives. **The Division's Fraud Section and CCIPS experts** have collaborated closely to make each of these efforts a success.

**Shadowcrew indictment.** In October 2004 the Department announced the indictment of 19 individuals who allegedly founded, moderated and operated "www.shadowcrew.com"—**one of the largest illegal online centers for trafficking in stolen identity information and documents, as well as stolen credit and debit card numbers.** The indictment was the result of a year-long investigation in which CCIPS lawyers partnered with the U.S. Attorney's Office for the District of New Jersey, the U.S. Secret Service, and other U.S. Attorneys' Offices and law enforcement agencies.

The indictment alleges that the 19 individuals from across the U.S. and in several foreign countries conspired with others to operate "Shadowcrew," a website with approximately 4,000 members that was dedicated to facilitating malicious computer hacking and the dissemination of stolen credit card, debit card and bank account numbers and counterfeit identification documents, such as drivers' licenses, passports and Social Security cards. It alleges a conspiracy to commit activity often referred to as "carding"—the use of account numbers and counterfeit identity documents to complete identity theft and defraud banks and retailers. The undercover investigation led to the arrests of 28 individuals in the U.S. and several foreign countries, including Bulgaria, the U.K., Canada, Argentina, and Sweden.

**Identity theft legislation.** On July 15, 2004, President Bush signed into law the **Identity Theft Penalty Enhancement Act**. This Act, **which the Department proposed after significant advice from the Division's fraud and computer crime experts,** and which received **strong bipartisan support in Congress,** **established a new criminal offense of aggravated identity theft.** Individuals found guilty of this new offense would receive an additional, mandatory consecutive two years' imprisonment over and above their sentences for the underlying felony offense (or, in terrorism-related cases of aggravated identity theft, an additional, mandatory consecutive five years' imprisonment over and above their sentences for the underlying terrorism offense). The Act also expanded the scope of the existing identity theft offense by making it applicable to a wider range of identity theft-related criminal conduct and increasing maximum penalties for various identity theft violations. At the signing ceremony, the President stated that the Act would "dramatically strengthen the fight against identity theft and fraud."

## **E. HUNTING WAR CRIMINALS**

*Those who participated in the atrocities of the Holocaust will not escape the determined reach of U.S. law enforcement, regardless of how much time has passed. Nazi collaborators will not find safe haven in the United States.*

- Attorney General John Ashcroft, July 2, 2003

The Division's Office of Special Investigations (OSI) works to detect, identify, and take legal action against persons who participated in acts of persecution sponsored by Nazi Germany and its allies before and during World War II. Because of the sensitive evidentiary and international issues that often arise in the context of war crime cases, these matters require attorneys with a great deal of experience and expertise in these matters. The Division is fortunate

to have some of the world's leading specialists in denaturalization and deportation cases in OSI.

The Intelligence Reform Bill, signed into law on December 17, 2004, expands the scope of aliens subject to deportation and denial of entry to those who have engaged in torture, genocide and religious persecution. It also expands the mandate of OSI, previously limited to Nazi war criminals, to certain other war criminals and human rights abusers. Rep. Mark Foley, who co-sponsored the change, commented that "[t]he United States is currently home to many immigrants who fled torture in their home countries" . . . "[w]hat many people don't know is that their torturers also come here to live."

The successes of our OSI attorneys have won widespread recognition and respect. In April 2004 the Simon Wiesenthal Center issued its annual report on Nazi war criminal investigations and prosecutions around the world, assigning "grades" to 41 nations to reflect the performance of each government in these cases. For the third consecutive year, only the U.S. received an "A" grade.

In its April 2004 report, the **Wiesenthal Center** stated, "The **success achieved by** dedicated prosecution agencies, and especially by the U.S. **Office of Special Investigations** (OSI), should be a catalyst for governments all over the world to make a serious effort to maximize justice while it can still be obtained."

Also, in 2004, **Eli Rosenbaum**, Chief of OSI, received a **Lifetime Achievement Award from the 1939 Club**, the oldest organization of Holocaust survivors in the United States.

In the past year, OSI has opened six new major investigations, won 13 of 14 federal court decisions—which is more victories in WWII cases than all other nations *combined*—denaturalized three Nazi criminals, and removed three others. One of the Division's victories came in the Sixth Circuit, which held unanimously last April that the Government had proved "through clear, unequivocal and convincing evidence" that John Demjanjuk was a guard at the Nazis' Sobibor extermination camp and at the Majdanek and Flossenbug concentration camps, and a member of the SS-run Trawniki unit "dedicated to exploiting and exterminating" Jews in Poland during WWII. The decision affirmed a district court's order stripping Demjanjuk of his U.S. citizenship. Demjanjuk, a retired Cleveland auto worker, is only the second person to be recognized in the U.S. for having served at one of the four Nazi camps built solely to murder civilians.

## F. PUBLIC INTEGRITY

*[T]he Department [is] commit[ted] to rooting out public corruption and prosecuting those who put personal greed ahead of public service.*

- Assistant Attorney General Christopher A. Wray, October 2, 2003



*The Department of Justice will investigate and prosecute vote fraud as long and as hard as necessary to protect the election process.*

- Assistant Attorney General Christopher A. Wray, March 16, 2004

**Our strategy to maintain public integrity and investigate election fraud.** The Division's experts in public corruption cases are often called upon by the Department to handle matters of the utmost sensitivity and importance. Our attorneys bring years of experience to these sensitive cases, conducting them discreetly, thoroughly, and efficiently in order to maintain the public trust. The Division's Public Integrity Section also works with the Civil Rights Division and the U.S. Attorneys' Offices to implement the Attorney General's Ballot Access and Voting Integrity Initiative, to deter election fraud and voting abuses and to prosecute violators vigorously and effectively. The following examples are just a few illustrations of the Division's important work in the above areas.

- **Detroit SAC matter.** In February 2004 Myron Strong, Andre Boone, and Richard K. Ready were charged with witness tampering, obstruction of justice and retaliation against a federal law enforcement officer in connection with a scheme to deceive the FBI that included **false allegations against the head of the FBI's Detroit Field Office.**

The defendants conspired to create the false impression that Willie Hulon, Detroit Special Agent in Charge (SAC), leaked sensitive law enforcement information to drug traffickers. Strong, an FBI informant, caused Boone and Ready to make statements falsely incriminating Hulon on telephone calls that Strong knew were being monitored by the FBI. In those calls, Boone and Ready falsely suggested that they had an improper relationship with Hulon and that Hulon had provided them information about the FBI's investigation into their drug trafficking.

Strong also had Boone pose as a drug dealer and threaten to kill an undercover government

agent in two telephone calls. In a search of Boone's residence, OIG, FBI, and task force agents recovered what appeared to be scripts used in several phone calls in connection with their alleged scheme. In addition, agents searching Strong's residence found an AK-47 rifle and a shotgun.

Hulon previously had been temporarily reassigned to FBI HQ, according to standard FBI procedure, while the investigation into these allegations proceeded. When charges were filed against the defendants, AAG Wray stated: "Thanks to the quick and thorough work of our investigators, **we**

Public Integrity Section Chief **Noel Hillman** and Trial Attorneys **Daniel A. Schwager** and **Kartik K. Raman** received the **2004 Attorney General's Award for Fraud Prevention** in recognition of their exceptional dedication and effort to investigate and prosecute the defendants who made false allegations against the FBI SAC in Detroit.



**were able to expose the scheme for what it was: a total fraud.”** The obstruction and witness tampering charges each carry up to 10 years in prison. Most importantly, the Division was pleased to get to the bottom of a matter that had unjustly stained the reputation of a dedicated public servant. Two defendants have pleaded guilty and await sentencing; another defendant is awaiting trial.

**International corruption cases.** The Division’s expert attorneys are also called upon to handle international corruption cases. For example:

- OCDETF recognized the work done by field and Division prosecutors in **finding, seizing, and repatriating assets stolen by the corrupt former government of Peru** headed by Alberto Fujimori and his security minister Vladimiro Montesinos. The Division’s Asset Forfeiture and Money Laundering Section served as the bridge between the U.S. Attorney’s Office for the Southern District of Florida, Peru, and the State Department to answer the difficult questions that allowed the repatriation to happen.

- **AFMLS** has sole responsibility for the civil forfeiture investigation of the **public corruption activities of former Ukrainian Prime Minister Pavlo Lazarenko**. The Division’s **Organized Crime and Racketeering Section (OCRS)**

**This case marks the first time that a corrupt foreign official has been brought to justice for abusing the U.S. banking system to hide his ill-gotten gains, and it required an unprecedented degree of overseas investigation and evidence collection. The Division’s OIA worked with foreign counterparts to meet the prosecution team’s more than fifty Mutual Legal Assistance Requests, to a dozen countries and to facilitate the more than seventy depositions of otherwise unavailable witnesses conducted in eight separate countries by the trial team.**

partnered with Assistant U.S. Attorneys in the Northern District of California to investigate and prosecute the underlying criminal case. After a long and involved investigation lasting over eight years, involving many requests for foreign assistance, in June 2004 a jury convicted Lazarenko of 29 money laundering charges. AFMLS filed a civil forfeiture complaint in May against Lazarenko’s criminal assets, **totaling more than \$231 million**, located outside of the U.S.

Several **OCRS and Public Integrity Section prosecutors** have partnered with the U.S. Attorney’s Office in Las Vegas to bring charges against defendants involved in a **massive embezzlement and money laundering scheme by several managers of the Kaiping branch of the Bank of China**—involving the embezzlement of **over 400 million dollars** from the bank and the laundering of the proceeds through Hong Kong and the United States. Representatives from OCRS and the FBI traveled to Beijing and negotiated an agreement with the Chinese to pursue the case

and, facilitate the investigation, the transfer of evidence, and other cooperation in the case.

- Also, in April, **PIN** attorneys met in Mexico City with representatives of Mexico's newly-established Election Crimes Unit. There, they discussed development of a program for Division prosecutors to train Mexican prosecutors in the detection and prosecution of election crimes. This follows the work of PIN and OIA attorneys leading to the signing, last December, in Merida, Mexico, by the Attorney General of the United Nations Convention Against Corruption.

**Two U.S. State Department employees plead guilty to bribery and visa fraud.** On April 30, 2004, in the Eastern District of California, Long N. Lee, a State Department Foreign Service Officer and career employee, and her husband Acey R. Johnson, until recently a Consular Associate in the consular section of the U.S. Embassy in Sri Lanka, pleaded guilty to accepting bribes, committing visa fraud, defrauding the U.S. of a duty of honest services, and receiving bribes. They will forfeit two homes and approximately \$361,766. Lee had issued visas for bribes as early as 1995. Lee and Johnson accepted hundreds and thousands of dollars in bribes broken into transactions under \$10,000 to avoid scrutiny, paid by visa brokers, and issued visas to scores of foreign nationals, primarily from India and Vietnam. Eleven defendants have been charged, including five brokers who previously entered guilty pleas.

**Foreign Corrupt Practices Act—ensuring our integrity beyond our borders and holding foreign offenders to our same standards.** We continued to vigorously pursue American defendants who bribed foreign officials to secure business. We likewise pursued foreign defendants seeking to do the same in the United States.

While we pursued these lawbreakers, we worked aggressively in the international arena to level the playing field for American companies seeking business abroad—by ensuring that other countries held their nationals to same standards.

FCPA prohibits corrupt payments to foreign officials for the purpose of obtaining or keeping business. Since 1998, these anti-bribery provisions also apply to foreign firms and persons who take any act in furtherance of such a corrupt payment while in the United States. Our prosecutions under FCPA work to restore public confidence in the integrity of the American business system.

- In 2004, prosecutors from the Division's **Fraud Section** ensured that InVision Technologies, Inc., a public company engaged in the worldwide sale of an airport screening product, adopted important measures designed to prevent and detect FCPA bribery offenses. InVision accepted responsibility for bribes offered or paid by its agents to foreign officials or political parties in the Kingdom of Thailand, the People's Republic of China and the Republic of the Philippines. The company also agreed to pay an \$800,000 monetary penalty and is cooperating fully with prosecutors and the Securities and Exchange Commission. The

company's voluntary disclosure of the violations and the extent of its cooperation secured it a non-prosecution agreement consistent with the application of the "Thompson Memorandum" which outlines circumstances under which prosecution of a corporation is and is not warranted.

- In another case, Fraud Section attorneys secured the conviction, in July of 2004, of two related companies for bribery offenses under the FCPA and secured their agreement to each pay a \$5.25 million fine and to disgorge to the SEC the combined amount of \$5,915,405.64 in profits and pre-judgment interest. The two companies, ABB Vetco Gray, Inc., and ABB Vetco Gray UK, Ltd., paid bribes in excess of \$1 million to various Nigerian officials to obtain confidential bid information and favorable recommendations from a Nigerian governmental agency in connection with several oil and gas construction contracts in Nigeria. The companies anticipated profits of almost \$12 million from these projects, although they actually realized only \$4.6 million on revenues of \$256 million.

**Ballot Access and Voting Integrity Initiative.** The Division is also fortunate to have the expertise of specialists in election fraud, who help spearhead the Attorney General's Ballot Access and Voting Integrity Initiative. This initiative seeks to ensure open, fair, and honest elections through the vigorous investigation and prosecution of election crimes. Notable successes this year included:

Public Integrity Section attorney **Richard Pilger** received the **Assistant Attorney General's Award for Outstanding Trial Advocacy** in connection with his invaluable work in combating vote-buying and election fraud. His efforts have addressed persistent and entrenched vote-buying practices and furthered the highest objectives of the Department and the Criminal Division.

- **West Virginia vote-buying.** In May 2004 Johnny Mendez, the **sheriff of Logan County, West Virginia, pleaded guilty to buying votes** to secure his 2000 Democratic nomination and arranging to do the same for his re-election bid in 2004. Mendez conspired with others over the course of both primary campaigns to bribe voters into casting ballots for several candidates, including Mendez. Mendez stepped down from his position upon pleading guilty. Also, in September, Mark Hrutkay also pleaded guilty to buying votes in the 2000 Democratic primary to help his then-wife win a seat in the West Virginia House of Delegates.
- **Kentucky vote-buying.** In March 2004 prosecutors in the Division's Public Integrity Section and the Eastern District of Kentucky secured a two-year prison sentence for Donnie Newsome, the Judge Executive of Knott County, Kentucky. Willard Smith, a co-conspirator, was also sentenced to two years in prison. A jury convicted the two of participating in a conspiracy to buy votes in the May 26, 1998, primary election in which Newsome successfully ran for office. Newsome and Smith approached

and paid numerous impoverished, handicapped, illiterate or otherwise impaired persons to vote for Newsome and others by absentee ballot. Newsome had been detained pending sentencing as a result of alleged threats to government witnesses during his trial.

- On **Election Day, 2004**, senior PIN prosecutors were on duty to handle complaints from the public and to provide guidance to U.S. Attorneys' Offices concerning allegations of election fraud and other election abuses. These lawyers were available from the time polls first opened on the East Coast until they closed on the West Coast.

This quote, from a local paper, the Big Sandy News of Eastern Kentucky, from editorial dated March 19, 2004, represents the tremendous impact of our efforts to ensure ballot integrity:

*Tuesday's sentencing in federal court . . . was both a sad and encouraging day for Eastern Kentucky. Sad the people of Knott County were effectively robbed of their voting rights by Newsome and others dolling out cash to buy a public office. Sad that (. . .), some people in Knott and other counties think that elections are supposed to be bought (. . .). (. . .) Sad that Judge Reeves could see and completely understand during just a one week trial the utter hopelessness and apathy in the area people feel regarding the so-called democratic process. (. . .)*

*Tuesday's events were encouraging in that prosecutors (AUSA E.D. Ky.) Tom Self and (Public Integrity Section Trial Attorney) Richard Pilger were willing to fight the hard battle for the people of Knott County, . . . (. . .) Encouraging that federal authorities have pledged to continue the fight they have started to restore to the people the right to govern themselves without dealing with a stacked deck. (. . .) Encouraging that there's some branch of government, in this case on the federal level, not shy about taking on political power houses, knowing the obstacles in their way will be many. (. . .) Encouraging that maybe, for once, we are not in this fight alone and have a place to turn to for help when we are willing to stand up to the machine. The feds have helped us take that first step toward getting back what is rightfully ours which has been traded away by others in the past in back room deals. (. . .)*

- **Ballot Access and Voting Integrity Initiative Conference.** In July 2004 PIN partnered with the Civil Rights Division to conduct the third annual Ballot Access and Voting Integrity Initiative Conference in Washington, D.C. The training conference represents a cornerstone feature of an initiative that the Attorney General announced in 2002, and brings together all of the 121 AUSA District Election Officers around the nation.

**Public corruption in U.S. territories.** PIN has taken the lead in investigating and prosecuting a series of important public corruption cases in Puerto Rico, the U.S. Virgin Islands, and American Samoa.

- In April 2004 two defendants were charged and one pleaded guilty in an extortion conspiracy connected with construction contracts for the island's new "**Superaqueduct.**" According to the indictment, in early 1995, the defendants, together with a member of the House of Representatives of the Commonwealth of Puerto Rico, **extorted money from engineering and construction contractors** based in Puerto Rico, who obtained

contracts for the construction of the Superaqueduct, a \$372 million project that included the construction of a 50-mile water pipe from the west to the east of the island. The House member pleaded guilty and faces up to five years in prison. The other defendants, if convicted of all counts, face up to 100 and 110 years in prison, respectively.

- In July 2004 in the District of Hawaii, the former Director of the American Samoa Department of Education School Lunch Program pleaded guilty to conspiracy to defraud the U.S. The defendant admitted that he and his co-conspirators agreed to **steal food and goods bought by the American Samoa School Lunch Program** and paid for with U.S. Departments of Agriculture and Education funds—funds that were supposed to have been used to feed children in the American Samoa Public School System.
- In August 2004 in the U.S. Virgin Islands (USVI), a federal jury convicted the former acting **Commissioner of the USVI Department of Health** of federal theft, territorial larceny, and false statement charges stemming from his conversion for personal use of 63 erroneous monthly payments, totaling \$102,498, which he received from the territorial government.

## **G. SMUGGLING & HUMAN TRAFFICKING**

*Each year an estimated 800,000 to 900,000 human beings are bought, sold, or forced across the world's borders. Among them are hundreds of thousands of teenage girls, and others as young as 5, who fall victim to the sex trade.*

*There's a special evil in the abuse and exploitation of the most innocent and vulnerable. The victims of [the] sex trade see little of life before they see the very worst of life, an underground of brutality and lonely fear. Those who create these victims and profit from their suffering must be severely punished. Those who patronize this industry debase themselves and deepen the misery of others.*

- President George W. Bush, September 23, 2003

The Administration and the Department have stated clearly their commitment to combating the crimes of alien smuggling and trafficking in persons. Human traffickers prey on the most vulnerable members of society— young children, runaway adolescents, undocumented migrants with little education and few language skills—and despicably treat them as commodities that can be used and discarded.

Trafficking in persons typically involves a continuum of criminal conduct that occurs over time, in different places. It can be purely domestic or transnational in scope. In either case, the results and the impact of the crime are felt here at home, in our communities. Whether the victim was plucked or lured from a home in the U.S. or from a home in Thailand, if she ends up on our streets and in our communities, abused and victimized here, she is a domestic trafficking victim whom we need to rescue and protect. While the criminal conduct of traffickers may start outside the U.S., it certainly does not end there.

OEO and DSS have collaborated in a successful **effort to establish a victim-witness coordinator network for the Division.** In the past, Division prosecutors have relied entirely on the coordinators residing in the U.S. Attorneys' Offices to handle the specific needs of those affected by the crimes we prosecute. Due to the growing caseload that the Division handles, and the size and complexity of those cases, the Division recognized the need for its own dedicated specialists to look after the needs of victim-witnesses. An experienced victim-witness coordinator is scheduled to join the Division in early 2005, and will be housed in OEO.

The trafficking of humans into the U.S. is facilitated by alien smugglers, false document vendors, and the like. In many source and transit countries, corrupt public officials become willing accomplices or even full-fledged members of trafficking organizations. Often, the smugglers who bring trafficking victims into the U.S. control their cargo with brutal efficiency.

If we disrupt only the end stages of a trafficking scheme, that disruption can be merely an inconvenience, rather than a death blow, to the organization itself. Unless we dismantle the entire trafficking network, including its financial structure, the network may simply absorb the loss and relocate the illicit business or reopen, using a new set of victims.

In order to shut down these networks completely, we must fight them on many fronts: victims are often lured or forced into the U.S. from abroad, which makes international cooperation crucial. The Division's specialists in international investigations are of enormous help to our anti-trafficking initiative; for example, OIA lawyers assisted with the successful Senate Foreign Relations Committee hearings last June on the United Nations Organized Crime Convention, which included protocols on criminalization, extradition, and mutual assistance in trafficking in children and trafficking for purposes of sexual exploitation. Also, Domestic Security Section (DSS) attorneys attend conferences, conduct training, and meet with foreign counterparts around the world in order to bolster their support in the fight against trafficking.

Of course, fostering international cooperation requires us to help our allies who have the will to assist us but not the means. Therefore, the Division's attorneys and agents from OPDAT and ICITAP who are stationed in Albania, Bosnia, Indonesia, Macedonia, Nigeria, Senegal, Thailand, and Togo have



begun training foreign law enforcement officers in methods of preventing and prosecuting human trafficking.

Because success in the fight against human trafficking requires the advice and expertise of so many different specialists and agencies, the Division's ability to bring all of them together to conduct a united effort is invaluable. Simply put, creating and coordinating a large-scale initiative does not happen without a lot of hard work, organization, and careful planning.

We also require attorneys with substantive expertise in this type of criminal activity to make sure that we stay one step ahead of criminal organizations. The Division's human trafficking experts represented the Department during the conception and creation of the interagency **Human Smuggling and Trafficking Center**. The Center assists policy makers and law enforcement bodies in

attacking smuggling and trafficking, and the charter for the Center went into effect in July 2004. The Organized Crime and Racketeering Section (OCRS) has taken the lead in representing the Criminal Division at the Center and ensuring that all of our resources are brought to bear in this effort.

**Monique Perez Roth**, Counsel to Assistant Attorney General Wray, received the **Assistant Attorney General's Award for Intra-Division Cooperation** in recognition of her extraordinary leadership in **combating human trafficking**. She coordinated a portion of an important national conference on the subject of human trafficking where speakers included the President, the Governor of Florida, and the Attorney General. Her efforts resulted in a successful series of presentations which reflected very favorably on the Division and its efforts to combat human trafficking. She also led the Division's participation in a new interagency intelligence center dedicated to human smuggling and trafficking.

Often, criminal networks use human smuggling and trafficking as a means to commit further criminal activity. For example, terrorist groups continually seek ways to move operatives and equipment across borders illegally and without detection; the Division's counterterrorism experts provide valuable advice on this topic. Our experts in sex crimes against children understand the links between sex trafficking, sex tourism (where persons travel abroad and commit sex crimes, often with children) and the child pornography industry. The Division's experts in prosecuting large drug trafficking organizations know that both drugs and persons can move along the same cross-border channels. Also, the trafficking of humans into the U.S. is facilitated by false document vendors or even corrupt public officials; our specialists in public corruption cases contribute their expertise.



## H. REDUCING VIOLENT CRIME: Project Safe Neighborhoods

*Newly released data shows record-levels of federal prosecutions of gun crime. Gun criminals are paying unprecedented penalties, and law-abiding Americans are enjoying unprecedented safety. Under President Bush's leadership, Project Safe Neighborhoods is making a tremendous difference in ensuring that gun crime means hard time.*

- Attorney General John Ashcroft, December 11, 2003

Three and a half years ago, in Philadelphia, Pennsylvania, the President and Attorney General announced the creation of Project Safe Neighborhoods (PSN). There, in the birthplace of American freedom, this Administration affirmed its commitment to protect the American people from gun-wielding criminals. We vowed to prosecute aggressively and relentlessly those who threaten the safety of our communities. And we pledged to prevent the senseless loss of life that often accompanies the illegal use of guns.

Since then, the U.S. Attorneys, state prosecutors, local and federal law enforcement, the Criminal Division, other PSN partners, and community members across America have worked together to make Project Safe Neighborhoods a success. Together, we have prosecuted America's most violent offenders and put them behind bars where they cannot offend again. We have made good on the President's and Attorney General's promise that "gun crime means hard time." Gun crime prosecutions are at a record high and **violent crimes committed with guns are at a record low.**

Together, PSN partners have also done far more than simply prosecute offenders. We have implemented effective prevention and deterrence measures that help stop gun crime before it happens. We have reached out to the residents of hard-hit communities and recruited their help in reclaiming their

neighborhoods. We have shown at-risk youth that there are alternatives to a life of crime. We have created roll-call training for police officers and classes on federal firearms laws for local prosecutors. We have served as mentors to offenders who are re-entering the community. We worked side-by-side with local

**Federal gun crime prosecutions are up 76%** over the past four years and Americans are safer. In FY 2004, the Department filed **11,067 federal firearms cases**—the highest number ever recorded. Defendants charged with federal firearms offenses are being sentenced to significant prison time. In FY 2004, approximately 73% of these offenders were sentenced to prison terms greater than 3 years for convictions on firearms charges or other offenses. These efforts, coupled with effective prevention and deterrence programs, have helped fuel the lowest violent crime victimization rate in 30 years.

researchers to identify each district's most significant gun crime problems and created strategic interventions in response.

The breadth of these efforts is one of PSN's greatest strengths: We are taking a comprehensive approach to take back our streets and set the course of America's future. But the greatest strength of PSN is the fact that each district has tailored the initiative to respond to the specific gun crime problems in each community. Although Project Safe Neighborhoods is unquestionably a national program, it gives each local jurisdiction the flexibility to craft a unique approach that meets its own particular needs. The result is that no two PSN initiatives are precisely the same. Thus, 93 individual laboratories across the country are each experimenting with their own approaches to reducing gun crime.

Experimentation is important, but so are the identification and development of best practices that have worked in certain districts and may also work in others. For this reason, Division attorneys in the Domestic Security Section (DSS) devote an enormous amount of energy to organizing the PSN annual conference, where representatives from around the country gather to learn from one another and to take heart from each other's successes.

As a result, there has been an **extraordinary increase in gun crime prosecutions** since FY 2000:

- Western District of Missouri: a **79% increase**;
- Western District of Tennessee: a **407% increase**;
- Middle District of Alabama: a **513% increase**.
- Delaware: a **583% increase**; and
- Hawaii, an astounding **760% increase** in gun crime prosecutions.

*These figures reflect available data through FY 2003.*

- In June 2004 attorneys from the Division's Domestic Security Section, the Office of the Deputy Attorney General, and the Executive Office for U.S. Attorneys organized the third **annual PSN conference** in Kansas City, Missouri, which hosted approximately 1,300 participants. Criminal Division attorneys prepared and conducted a series of presentations based on best practices that they had collected and analyzed throughout the year.

Also, throughout the year, Division experts worked with individual districts to identify and overcome obstacles to the successful reduction of gun crime. We carefully tracked each district's progress and continuously sought to help fine-tune each district's approach in order to improve results.

The Division's DSS co-chairs the Firearms Enforcement Assistance Team (**FEAT**), the **national management group for PSN**. FEAT is responsible for the overall direction of the PSN initiative, and guides all national-level policy, training, research and implementation programs. DSS has published **three volumes of PSN Innovative Strategies** that are distributed to the districts. Also, DSS

publishes the Violent Crime newsletter that highlights legal policy issues relevant to PSN.

The Division's PSN specialists also execute program-wide initiatives that will help all of America's communities see a drop in gun crime. For example, at the national level, Project Safe Neighborhoods has launched a **successful outreach and deterrence** campaign. In partnership with the National Crime Prevention Council, the Ad Council, and Mullen, a Boston-based ad agency, we created a campaign that focused on the pain that gun crime causes families. It uses the tag "Gun Crimes Hit Home." We have produced **four television ads** under that campaign that have **aired over 55,000 times across the country**. The networks have donated over one-and-a-half million dollars' worth of airtime to carry the ads, not including the airtime given by cable providers.

The Division also solicits **feedback from the districts** in conceiving of and implementing these national initiatives. At the June 2004 conference, AAG Wray announced a **new PSN public service ad campaign**. In response to requests from several districts, we created new print and radio ads that **target the problem of domestic violence and firearms**. Several districts rightly noted that the previous national ad campaign—the "Gun Crimes Hit Home"—plays well in urban areas, but does not address the needs of rural communities, where domestic violence is often the most significant gun violence issue. The new ads warn domestic violence offenders that they cannot possess a gun under federal law.

## **I. ENSURING SENTENCING INTEGRITY**

The Criminal Division represents the Department's interests in ensuring that criminal sentences across the nation are consistent, tough, and fair. Through the Division's sentencing expert, who serves as an ex officio member of the U.S. Sentencing Commission, the Criminal Division keeps the entire Department abreast of new developments and seeks to implement changes that help all federal prosecutors keep Americans safe.

**Blakely.** In June 2004 the Supreme Court issued its opinion in *Blakely v. Washington*, which invalidated, under the Sixth Amendment, a sentencing enhancement imposed under the Washington state sentencing guidelines. Although the Court expressed no opinion on the *federal* Sentencing Guidelines, courts and prosecutors around the country wondered whether *Blakely's* rationale undercut the validity of the federal Guidelines. As defendants quickly began to raise *Blakely*-related challenges, and as lower courts lent them sympathetic ears, U.S. Attorneys' Offices struggled to respond and sought guidance from the Division.

The Division's **sentencing experts** from its Office of Policy and Legislation (OPL) and Appellate Section responded quickly, drafting a

**comprehensive memo to all federal prosecutors that detailed the Department’s legal position on the matter and charging, plea, and trial practices** to be used as guidance that the Supreme Court provided further clarification. The Department distributed this memo under the Deputy Attorney General’s signature, and received many expressions of thanks from the field. Then, based on further deliberation and comments from the field, the Division’s “*Blakely* team” helped prepare another memo, distributed under Assistant Attorney General Wray’s signature that amplified several points made in the prior memo to federal prosecutors.

The Division’s quick and thorough response to the immediate aftermath of *Blakely* illustrates our ability to marshal expert resources to respond to issues of national concern. The Division’s “*Blakely* team” worked long hours **drafting briefs, arguing cases, and advising Assistant U.S. Attorneys around the country.** The

team’s extraordinary efforts during that stretch have been largely successful. The majority of the circuits have upheld the Guidelines, and the team helped the Office of the Solicitor General to obtain expedited review in the Supreme Court. The forthcoming decisions in *Booker* and *Fanfan* will likely require a revision of the Sentencing Reform Act and the Federal Sentencing Guidelines, which the Division’s appellate and sentencing specialists will also undertake.

**The “*Blakely* team”**—Kathleen Felton, Nina Goodman, Demetra Lambros, Steven Lane, and Elizabeth Olson of the Appellate Section, and Jonathan Wroblewski of the Office of Policy and Legislation—was recognized with the Division’s “**Special Initiative Award**” for their exceptional efforts responding to the *Blakely* decision.

Our small Appellate Section handled 4,120 appeals last year—that’s in addition to comprehensive guidance packages prepared in significant cases such as this.

**Federal collateral review.** In 1997, an attorney in the Division’s Appellate Section authored a manual on collateral review, which became an indispensable resource for any prosecutor responding to a Section 2255 motion or a habeas corpus petition. In the ensuing years, however, significant developments in the law rendered the manual out of date. This year, several Section attorneys—acting on their own initiative—rewrote the manual. The revised version, which is available online, is 162 pages long. It provides a scholarly and clear discussion of the issues that arise on collateral review, and provides prosecutors throughout the Department with an extraordinary and invaluable research tool.

**Sentencing integrity and the death penalty.** The Division’s **Capital Case Unit (CCU)** ensures sentencing integrity as it relates to the application of the death penalty. CCU promotes consistency and fairness in the application of the death penalty throughout the United States. In fiscal year 2004, CCU attorneys assisted and informed the death penalty protocol review and decision-making process for approximately **250 defendants charged with capital**

**offenses**—thereby assuring that the federal capital sentencing laws are **applied consistently and fairly in appropriate cases nationwide**.

**Guidance on *Crawford v. Washington*.** In *Crawford*, the Supreme Court held that where the government offers at trial evidence that is “testimonial” in nature, the Confrontation Clause of the Sixth Amendment requires actual confrontation, i.e., cross-examination, regardless of how reliable the statement may be. In so holding, the Court repudiated the general framework set forth in *Ohio v. Roberts* for analyzing the admissibility of “testimonial” hearsay, holding that a judicial determination that a testimonial hearsay statement is reliable is no longer sufficient to satisfy the Sixth Amendment. Division attorneys expeditiously drafted comprehensive guidance on this groundbreaking decision, which was distributed to all federal prosecutors.

**Ensuring sentencing integrity abroad.** In addition to seeking to ensure sentencing integrity here at home, Division attorneys work to help foreign governments achieve the same transparency and consistency in their systems. For example, in October 2004, OPDAT attorneys in Moscow conducted a program for forty senior Russian officials regarding the introduction of sentencing guidelines in Russia. Russians see such a proposal primarily as an anti-corruption measure by making judicial sentencing more transparent and reviewable.

## **CONCLUSION**

All of the above accomplishments are cause for celebration. They represent but the “tip of the iceberg.” For each case mentioned above, there are other important cases that went unmentioned because of space constraints. The accomplishments listed in this report are the dividends of the hard work, innovation, and teamwork that characterize the Criminal Division. Together, we will continue our efforts to give the American people the protection they expect and deserve.